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PROCEEDINGS

OF THE

SPECIAL COMMITTEE APPOINTED TO INVESTIGATE

MAJOR HODGINS' CHARGES

REGARDING OVER-CLASSIFICATION OF MATERIALS IN THE CONSTRUCTION OF THE NATIONAL TRANSCONTINENTAL RAILWAY

(REVISED EDITION)

PRINTED BY ORDER OF PARLIAMENT

OTTAWA
PRINTED BY S. E. DAWSON, PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1908

[Appendix No. 5—1908.]

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ORDER OF REFERENCE

HOUSE OF COMMONS,
TUESDAY, April 28, 1908.

Resolved, That the memorandum of the Chairman of the Transcontinental Railway Commissioners to the Prime Minister, of date the 23rd April, and laid on the table of this House on the 24th instant, and the papers accompanying the same, together with the letter of Major Hodgins to the public press therein referred to, be referred to a Special Committee of five members, with instructions to investigate the matters and charges therein mentioned, and that the said committee be composed of—

Messrs. Carvell,
Macdonald (Pictou),
Geoffrion,
Barker, and
Lennox;

and that they have power to send for persons, papers and records, to examine persons on oath or affirmation, and to report from time to time.

Attest.

THOS. B. FLINT,
Clerk of the House.

FRIDAY, May 15, 1908.

Ordered, That leave be granted to the said committee to sit while the House is in session.

Attest.

THOS. B. FLINT,
Clerk of the House.

THURSDAY, May 21, 1908.

Ordered, That leave be granted the said committee to have all their proceedings and any evidence taken by them in this inquiry printed from day to day for the use of the committee, and that Rule 72 be suspended in reference thereto.

Attest.

THOS. B. FLINT,
Clerk of the House.

SUMMARY of papers laid on the table of the House, April 24, 1908, and attached to the Order of Reference.

Date.	Writer.	Subject.
1908.		
April 17..		Extract from "Daily Colonist," Victoria, B.C., containing charges made by A. E. Hodgins *re* classification of materials, &c.
" 18..		Extract from "Manitoba Free Press," Winnipeg, Man., *re* foregoing.
" 19..		Extract from "Daily Colonist," Victoria, B.C., giving instances of workings of Quebec Classification.
" 22..		Extract from Ottawa "Citizen" *re* above.
" 23..	Chief Engineer	Letter to Commissioners Transcontinental Railway stating no estimates or accounts have been padded.
" 23..	Chairman Transcontinental Ry.	Memo. addressed Premier refuting charge made by A. E. Hodgins.
1907.		
July 23..	G. Grant	Reports *re* line under construction in District F.
" 31..	Secretary Transcontinental Ry.	Letter to Chief Engineer requesting him to notify Engineers Grant and Hodgins to attend meeting of Board.
" 31..	Chief Engineer	Letter to Commissioners Transcontinental Ry. enclosing report of G. Grant and reply thereto from A. E. Hodgins denying statements made by former.
Aug. 6..	A. E. Hodgins	Enclosing J. McArthurs' progress estimate for month of July.
" 24..	Chief Engineer	Letter to A. E. Hodgins transmitting questions and answers thereto made by G. Grant *re* classification.
" 24..	Chairman Transcontinental Ry.	Memo. addressed Secretary Transcontinental Ry. requesting to be informed whether he ever had in his possession A. E. Hodgins' letter anent certain items of work.
" 24..	Secretary Transcontinental Ry.	Reply to foregoing.
" 24..	Chairman Transcontinental Ry.	Letter to Chief Engineer enclosing copy of memo. sent Secretary of Board *re* unsatisfactory progress of work in District F.
" 24..	Chief Engineer	Telegram to Hodgins.
" 27..	"	Reports *re* progress of work in District F and recommends appointement of Engineer to replace A. E. Hodgins.
Sept. 4..	A. E. Hodgins	Letter to Chief Engineer stating reason for giving order to classify partially by force account.
" 24..	Chief Engineer	Letter to Commissioners Transcontinental Ry. *re* situation in District F. and recommends appointment of S. R. Poulin as successor to A. E. Hodgins and S. O. Foss as his assistant.
" 26..	Secretary Transcontinental Ry.	Letter to Chief Engineer communicating Board's approval of appointment of Poulin and Foss.
" 26..	"	Letter to Chief Accountant informing him of foregoing.
" 26..	Chief Engineer	Letter to Commissioners Transcontinental Ry. recommending appointment of S. O. Foss as Acting Engineer District F, pending Poulin's arrival.
" 26..	Secretary Transcontinental Ry.	Letter to Chief Engineer communicating Board's approval of foregoing recommendation.
" 26..	"	Letter to Chief Accountant enclosing copy of foregoing.
" 30..	S. R. Poulin	Letter to Chief Engineer requesting allowance of $75 to $100 per month for board while in charge of District F.
" 30..	Secretary Transcontinental Ry.	Letter to Chief Accountant communicating Board's approval of payment of special allowance of $75 to S. R. Poulin.
Nov. 9..	A. E. Hodgins	Letter to Chairman Transcontinental Ry. anent his dismissal.
" 18..	Secretary Transcontinental Ry.	Letter to Chief Engineer requesting to be furnished with copy of A. E. Hodgins' letter of 4th Sept.
" 19..	Chief Engineer	Letter to Secretary Transcontinental Ry. enclosing copy of foregoing.
" 19..	"	Letter to Chairman Transcontinental Ry. stating he did not approve of instructions given by A. E. Hodgins to Division Engineers *re* force account classification.
" 20..	A. E. Hodgins	Letter to Chairman Transcontinental Ry. enclosing copy of notes and letter received from A. H. Willet *re* force account classification.
" 21..	Chairman Transcontinental Ry.	Letter to A. E. Hodgins enclosing copy of Chief Engineer's letter replying to his letter *re* his dismissal.

APPENDIX No. 5

PAPERS AND CORRESPONDENCE ATTACHED TO ORDER OF REFERENCE.

Extract from *Daily Colonist,* Victoria, B.C., dated April 17, 1908.

REFUSED TO PASS CLASSIFICATIONS.

MAJOR HODGINS TELLS WHY HE RESIGNED FROM NATIONAL TRANSCONTINENTAL RAILWAY.

HUGE SCANDAL IS HINTED.

Would not prove complaisant to Quebec Classification Contractors.

The truth about the resignation of Major A. E. Hodgins, C.E., District Engineer in charge of the 400-mile section east of Winnipeg on the National Transcontinental Railway, which is the government portion of the Grand Trunk Pacific Railway, is at last coming out. Major Hodgins is at present a resident of Victoria. His resignation took effect last October.

The reason in brief was that Mr. Hodgins would not prove complaisant to the government favourites who held the contracts for building certain sections of the road in the matter of 'classification.' He insisted upon a proper classification, whereas the contractors appealed for the classification which prevailed in Quebec. Mr. Hodgins could not see through the weird spectacles which permitted of classifications of that nature. Hence his resignation.

Just the amount of graft which the following letter of Major Hodgins hints at it is impossible to estimate. That this letter is the first step in the uncloaking of a scandal of greater magnitude than any previously known in the history of Canada, is hinted by those in the confidence of the major.

VICTORIA, April 16, 1908.

SIR,—I have seen the following item in the Victoria *Colonist* of April 15th:

'It is officially announced that the National Transcontinental Railway between Winnipeg and Moncton is to cost $63,419,466. Mr. Fielding's estimate was $51,300,000. Mr. Blair put the cost at $65,000,000. The chances are that when all the accounts are in, Mr. Blair's estimate will be exceeded.'

I have also seen the report of an interview with Mr. J. D. McArthur in the Toronto *World* of the 12th of March:

'He declares that while the first estimates as to cost of his 250 miles was thirteen million dollars, the probable outlay will be close on to sixteen million dollars, so many changes have been made.

'All these changes were for the best, and if it does cost over sixty thousand dollars per mile, the road will be a monument to engineering skill and to Canadian enterprise.'

Mr. McArthur should have been more definite and explained what 'changes' would increase the estimated cost; change in location and change in the standard of classification both affect the cost of construction. Change in location was made at some points by revision surveys, these improved the line and also reduced the cost of the McArthur contract over one million dollars. I was able to make these revisions before Mr. McArthur started the work in earnest. A good year passed before he was able to get sufficient men to cover the 250 miles.

Change in Classification.

The root of all the trouble between the commissioners and myself was over classification. They wanted me to change my ideas, based on a good many years' experience on construction, to classification that is allowed to the contractors in Quebec. It was suggested that I should ignore the chief engineer and act independently, that

the chief engineer liked to be ignored. I refused to be more liberal in classification than I was then allowing, and suggested that the commissioners not being railroad men should leave the engineering department alone.

Mr. C. A. Young, Commissioner for Manitoba,then advised that I should go to Quebec and see how things were managed in that district, where contractors were not kicking, and get an object lesson. I went, and returned determined not to allow Quebec classification to be introduced into the western district as long as I remained in charge. This, of course, led to trouble, and I got no assistance from the chief engineer. I thought if the commissioners interfered with me any further Sir Wilfred Laurier would set matters right as soon as I appealed to him; here I made a miscalculation, the chairman of the commission, Monsieur Parent, got in first and hypnotized the government, and I was removed for other reasons, no investigation into my case was allowed, and my opinion and the opinion of the next senior engineer of the district was smothered. I have appealed in vain for an investigation into classification, and have been told that it would be considered political interference if the government interfered with the management of the Board of Commissioners.

Increase Accounted for.

If Monsieur Poulin, the engineer appointed by Mr. Parent to replace me on the western district, has allowed the introduction of classification similar to that in Quebec, this will account for an increase in the estimated cost of the line. If this increase amounts to three or four million dollars (33⅓ per cent), it is time the public demanded some explanation from the government.

The quickest way for the government to find out if the classification allowed is extravagant or not will be for the Minister of Railways to ask for the monthly reports of the Grand Trunk Pacific Railway engineers, who are stationed on the Winnipeg district and the Quebec district, Messrs. Mann, Heaman and Armstrong; these reports are, I think, sent to the assistant chief engineer of the Grand Trunk Pacific in Montreal. These engineers are well known in the west, and their reports contain much more information on the subject than I have.

I have not seen any of their reports, but it is easy for one to guess what is in them. These engineers are placed on work under contract to report to their company on cost and to act in joint supervision with the commissioners' engineers, but they are not allowed to sign contractors' estimates or certify to their correctness. Their signatures ought to be on the monthly estimates, in order that there will be no dispute over the amount of interest due the government. There is, however, a clause in the agreement that disputes are to be settled by arbitration, but if arbitrators are put off until interest is due, seven years after the road is finished, the money will have been paid to the contractors.

No Chance of Investigation.

Before I left Kenora I said to an engineer who knew a good deal about Quebec classification, that there would surely be a scandal over it; he replied that any investigation would be blocked. I thought this a wild statement at the time, but it confirmed my opinion that I was right in objecting to allow it on my district. Since my removal I am forced to believe that there was something in what this engineer said, because I have been refused an investigation, and classification would have been the only point of importance I would have raised on my defence.

Western men are counting on cheap rates over the 'Transcontinental.' If it is going to cost many millions more than is necessary, they should not be content until a thorough and impartial investigation is made into classification that will be disputed when the road is finished. As I have already mentioned, let the government ask for the reports and opinions of engineers who are safeguarding the Grand Trunk Pacific interests, and judge for themselves if Monsieur Parent is correct in his standard of classification, or extravagant.

APPENDIX No. 5

CAREER OF HODGINS.

The career of the gentleman who would not prove complaisant has been a distinguished one. Graduating from the Royal Military College, Kingston, Ont., in 1882, he was from that time until the completion of the Canadian Pacific Railway, in 1886, engineer on construction in the prairie and mountain sections.

From 1886 to 1889 he was engineer on construction of the Canadian Pacific Railway short line through the State of Maine, and in 1889 engineer on construction of the Canadian Pacific Railway extension from Toronto to Detroit.

In 1889 he went to Mexico as engineer on construction on the Mexican Inter-Oceanic from Vera Cruz, but left on account of ill-health.

From 1890 to 1899 he was in the Kootenay country, British Columbia, residing principally in Nelson, practising his profession, and in 1899 he went to South Africa as lieutenant with the first Canadian contingent.

During the South African war he was promoted to the rank of major, and went on the staff of Sir Percy Girouard as officer in charge of construction on imperial railways in the Transvaal and Orange River colonies. He remained in South Africa, and when peace was declared was appointed as the government superintendent engineer of railways in the Transvaal and Orange River colonies.

Major Hodgins returned to Canada about three years ago, and was appointed district engineer in charge of the 400-mile section east of Winnipeg on the National Transcontinental Railway. His resignation last October created a great deal of unfavourable comment, and it was freely asserted that more lurked behind it than then was announced.

A son of Judge Hodgins, of Toronto, a Liberal of the old stamp, it was believed that his uncompromising rectitude had proved an obstacle in his preferment by the present administration.

Extract from Manitoba *Free Press,* Winnipeg, dated April 18, 1908.

HODGINS CHARGES ENORMOUS WASTE.

DISMISSED ENGINEER DECLARES MILLIONS ARE BEING STOLEN ON GOVERNMENT SECTION.

Major's side of Story—States Trouble first arose over Question of Classification.—asked for Investigation.

VANCOUVER, B.C., April 17, 1908.

Alleging broadly that millions of dollars is being wasted or stolen in the construction of the government portion of the Grand Trunk Pacific railway, Major A. E. Hodgins, C.E., has issued a leter, the object of which is to secure an administrative investigation. Major Hodgins is now a resident of Victoria. He is a son of Judge Hodgins, of Toronto, a Liberal, who recently demanded an investigation by the government to enquire into the reasons for his son's removal from office.

Major Hodgins, who came to Canada three years ago, after serving on the staff of Sir Percy Girouard in Africa, was appointed district engineer in charge of the four hundred mile section east of Winnipeg, on the National Transcontinental Railway. Last October he was dismissed. He appealed to Premier Laurier and F. W. Morse, but says no investigation so far has been proposed.

Paying Padded Accounts.

The pith of his charges is that the Grand Trunk Pacific Engineers' reports and those in the employ of the government do not tally; that the government is paying padded accounts for the work done and that the Grand Trunk Pacific people are making no objection because they merely have to pay the added interest. Following are the salient portions of Major Hodgins' letter: 'Changes in the location of the line were made at some point by a revision of the surveys. These improved the line and

also reduced the cost of the McArthur contract over one million dollars. I was able to make these revisions before Mr. McArthur started work in earnest. The root of the trouble between the commissioners and myself was over classification. They wanted me to change my ideas, based on a good many years experience on the construction to the classification that is allowed to contractors in Quebec. It was suggested that I should ignore the chief engineer and act independently, and it was intimated that the chief engineer liked to be ignored. I refused to be more liberal in the classification than I was then allowing, and suggested that the commissioners, not being railroad men, should leave the engineering department alone.

Advice from Mr. Young.

'C. A. Young, commissioner for Manitoba, then advised that I should go to Quebec and see how things were managed in that district, where the contractors were not kicking, and get an object lesson. I went, and returned determined not to allow the Quebec classification to be introduced into the western district, as long as I remained in charge. This, of course, led to trouble and I got no assistance from the chief engineer. I have appealed in vain for an investigation into the classification, and have been told that it would be considered political interference with the management of the board of commissioners.

Investigation Blocked.

'If Mr. Poulin, the engineer appointed by Mr. Parent to replace me on the western district, has allowed the introduction of a classification similar to that allowed in Quebec, this will account for the increase in the estimated cost of the line. If this increase amounts to three or four million dollars, it is time the public demanded some explanation. The quickest way for the government to find out if the classification allowed is extravagant or not will be for the Minister of Railways to ask for the monthly reports of the G. T. P. engineers who are stationed on the Winnipeg and Quebec districts, Messrs. Mann, Heaman and Armstrong. Before I left Kenora I said to an engineer who knows a good deal about the Quebec classification that there would surely be a big scandal over it. He replied that any investigation would be blocked. Let the government ask for the reports and opinions of the engineers who are safeguarding the G. T. P. in this, and judge for themselves if Mr. Parent is correct in his standard of classification or extravagance.

EXTRACT FROM THE OTTAWA 'CITIZEN,' APRIL 22, 1908.

Another Government Scandal.

Troubles are coming fast and thick upon the Laurier administration. The latest are the public charges made by Major Hodgins, late district engineer for four hundred miles of the government end of the Transcontinental railway. The essence of his statement is that millions of dollars are being boodled in connection with the construction of this government work. Names and figures are given and the allegation is made that he was forced out of his position because he refused to be a tool of the boodlers. His professional record and admitted ability give due weight to the assertions which he boldly makes. The charges cover not only his former division but apply to the construction of the whole line through Quebec. At the time of his dismissal, Major Hodgins says that he applied to Sir Wilfrid Laurier for an investigation into the scandalous conditions which he alleges to prevail and that the investigation was refused. In the face of such charges made by a responsible professional man, who is apparently prepared to furnish the evidence to substantiate them, it will be very difficult for the government to consistently refuse to have the matter thoroughly probed. In deliberately making the charges public, Major Hodgins practically pledges his professional reputation on his ability to prove them and incidentally to explain the

reason of the dismissal which, if the circumstances are substantiated, reflect upon both the government and its railway administration in a most serious manner. The revelation by Major Hodgins, ex-district engineer of the government portion of the Transcontinental construction and the boodling of millions of dollars in connection with that work is the most serious charge that the present administration has had yet to face. In view of the many scandals that have cropped up of late in connection with the administration the public mind will be quite prepared to learn that such an opportunity as the enormous expenditures on the new railway has not been neglected by the grafting element.

Extract from *Daily Colonist,* dated April 19, 1908.

CLAIMS COLOSSAL SCANDAL EXISTS.

MAJOR HODGINS GIVES INSTANCES OF THE WORKINGS OF 'QUEBEC CLASSIFICATION.' MULCTED OF MILLIONS.

People of Canada overcharged huge sums, he claims, in wrongful rating.

That four millions of dollars in excess of what should be paid by the people of Canada for the construction of the 250 miles of the National Transcontinental Railway, east of Winnipeg, and known as the McArthur contract, will come out of the treasury of the country is the statement of Major A. E. Hodgins, late government engineer upon the work. Major Hodgins' letter to the *Colonist* of Thursday giving for the first time the reasons for his resignation, has excited the widest comment across the continent. If his figures are correct, and if the same amount of the alleged wrong classification exists upon the whole 1,800 miles of the road being built by the Dominion, the Canadian people will be $28,000,000 out of pocket and a scandal of a magnitude never before known in Canada ensues.

Quebec Classification.

'Quebec classification,' as interpreted on the eastern portion of the National Trans-continental railway, appears to be a most elastic and profitable way of building railroads, at any rate from the point of view of the contractor, J. D. McArthur, one of the contractors, in a recent interview described the work as a monument to engineering skill and Canadian enterprise, and from a fuller account of the way grading is being classified, given to the *Colonist* by Major Hodgins, the enterprise of the classifiers under the inspiration of Mr. Parent and his fellow commissioners would seem to be monumental indeed.

There is nothing mysterious or scientific about the classification of the material removed in grading, although experience is needed before it can be properly done. And for the benefit of those unacquainted with railroading it may be stated, that it is the custom in bidding on a railroad contract to quote rates at which the different kinds of grading will be done, and not a lump sum for the work.

Under the government regulations for contractors and engineers on the National Transcontinental, grading is classified under three heads: Solid rock excavation, loose rock excavation and common excavation. These terms are defined as follows in the official regulations referred to :—

'Solid rock excavation will include all rock in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.

'Loose rock:—All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock whether in situ or otherwise, that may be removed by hand, pick, or bar, all cemented gravel, indurated clay and other materials, that cannot, in the judgment of the engineer, be ploughed with a 10-inch grading plough, behind a team of six good horses, properly handled, and without the necessity of blasting, although blasting may occasionally be resorted to, shall be classified as 'loose rock.'

'Common excavation will include all earth, free gravel, or other material of any character whatever not classified as solid or loose rock.'

Crux of Matter.

It was because Major Hodgins, an engineer of great experience, declined to follow the ideas of the commissioners as to whether material should be classified as solid rock, loose rock or common excavation that his excavation was asked for, and it should be remembered that the commissioners are political nominees and not engineers or practical railroad men.

In order to fully grasp the supreme importance of honest classification in railroad building to those who pay the bills, the system under which the railroad construction contracts are let should be understood. In the first place the engineer locates the line. He then goes over it carefully and makes an estimate of the amount of material which will have to be removed, and how much of it will fall in each of the three classes mentioned. He also supplies detailed estimates of the work, such as the amount of clearing, grubbing, piling, draining and so forth that the work will entail, and in the official estimates for the work in question there are 101 such items. The engineer places opposite each item in the estimate the amount that that work should cost in his judgment, and thus the total estimated cost of the road is arrived at. The contractors who intend to bid are supplied with identical forms, and after going over the work, they fill in the amounts which they consider adequate remuneration and the smallest total is awarded the contract. But they do not contract to build the road for a specified sum, they merely agree to do certain kinds of work at a specified rate per cubic yard or running foot. And this is where the importance of the classification comes in.

Major Hodgins' Section.

The road is divided into sections, each under the charge of a resident engineer. In the case of Major Hodgins, he had charge of nearly 400 miles of road running east from Winnipeg. Under him were government engineers for each forty miles of road, and under them again were other engineers, about one for every ten miles. It is the duty of these last to go over their ten miles of road every day, or at most every other day and to note the work. They measure what work is being done and report how many cubic yards of solid or loose rock or as the case may be, is excavated. Their work is checked by their superiors and at the end of the month a monthly estimate is sent in, showing how many yards of each kind of excavation has been performed, and the contractor gets his pay accordingly. Thus if common excavation is classified as loose rock in these estimates, or loose rock as solid, the builders of the road, which in this case are the people of Canada, are robbed of the difference between the contract price of excavating loose rock and that of excavating solid rock, as the case may be. Thus with dishonest classification there is no possibility of knowing how much a given piece of road is going to cost until it is actually built and paid for.

Will Amount to Millions.

Over large stretches of construction the money thus fraudulently paid will amount to millions, and if Major Hodgins' classifications were correct, the Railway Commissioners already contemplate paying the contractor in question, J. D. McArthur, $4,000,000 more than he is entitled to on 250 miles of road, and how much more he will actually receive should the monthly estimates of the work done exceed the present revised estimates of the eventual cost, and the present management remain unchanged, cannot even be guessed at. The possibilities are unlimited, and it must be remembered that some 1,800 miles of road is being built in the same generous fashion.

It would seem, too, that on the National Transcontinental this prodigal expenditure does not profit the men who are actually doing the work, as sub-contracting has been allowed to an extent unexampled in modern railroad practice. J. D. McArthur,

for instance, has the original contract for 250 miles of road. He sublets this in fifty or sixty-mile stretches at a reduced price. These sub-contractors sublet again to men who take about ten miles apiece. The sub-contractors once more sublet in contracts of a mile or less, and the sub-sub-sub-contractors sublet once more to the men who do the work. These are mostly Swedes, who work practically day and night, and last winter the labourers on the road were getting 15 cents an hour, while the different grades of men above them were sitting reading the paper and making fat profits. How far down the various 'subs' share in the original generous classifications is a matter of some doubt, and many are of the belief that most of the cake stays on top. In any event, the present system permits of an immense amount of unearned profits, while the unfortunate labourer is ground down, and this on a national railroad being built with public funds.

Major Hodgins laid out the line on which J. D. McArthur is working after the Grand Trunk engineers had run theirs, selecting a better and more direct route, with a saving to the country of several million dollars on this piece of line alone. For this he received the warmest official commendation. He was in high favour until he refused to fall into line on the classification graft.

Changed Classifications.

Discussing the way he made his estimates for the McArthur contract, Major Hodgins said yesterday :

'I made the estimate in the usual way before the contract was called for, allowing everywhere a most liberal margin so as to be on the safe side. Everything that I was uncertain about I put in as solid rock. I took no chances of being under the mark, and made my estimates generously. These estimates amounted to $13,000,000. Afterwards, owing to a few changes in the way of shortening certain sections of the line, the figures were reduced to below $12,000,000. Now comes the announcement, startling to those who do not know what is going on, that the estimates have been increased to $16,000,000. As the change in location cheapened the line, and only affected small portions of it, all this large increase comes from classifying as solid rock what I classified as loose rock, or as loose rock what I considered common excavation. And I repeat that I was as generous in my estimates as I honestly could be, but every engineer knows that there is a line between generosity and fraud in such matters. I did not care to cross it.'

In reply to questions regarding the nature of McArthur's 250 miles of contract, Mr. Hodgins said that the 70 miles out of Winnipeg is prairie, worth about $6,000 a mile, and there can be no mistake or question as to what classification prairie work comes under, while the 40 miles from Lake Superior junction west he estimated at $30,000 a mile. This leaves 160 miles in the course of which 'monumental enterprise' raised the price over $4,000,000, or the neat sum of $25,000 a mile, making the total cost of this 160 miles of road $14,380,000, or in round numbers $90,000 a mile.

To put it in another way, if, as there seems every reason to suppose, the rest of the road is to be built on the same principle, the 1,800 miles of railroad built with the money of the Canadian people will carry with it a graft amounting to $28,000,000, and the fun has only begun. For, as already pointed out, no limit can be assigned to the loss occasioned by fraudulent classification.

Warned to Change.

Major Hodgins explained that his classification was, after a while, objected to by those in authority. He asked what kind of classification was wanted. He was told to classify the grading on the same principle as it was done in Quebec. But as his interlocutors appeared unable to explain any rational manner on what method he should proceed were he to attempt to alter his estimates as requested, and as such explanations as he was given were so at variance with his official instructions in writing, he was unable to comply. At this the major received orders to go to Quebec and

see for himself what they were doing. He went to La Tuque, and yesterday Major Hodgins described something of what he saw there.

'At La Tuque,' said the Major, 'there is a large cutting which was originally intended for a tunnel. It is usually cheaper to tunnel any cut that is over 60 feet deep, and this had a slope on one side of 120 feet and on the other side of about 80 feet. But when they started to work it was found that there was no solid rock, so that a tunnel was an impossibility. Consequently, an open cut was made. It was a very large cutting, containing 150,000 cubic feet of material. The ground was a mixture of earth and sand, with some boulders. There was no solid rock in the place at all, so that anything that could be classified as solid rock must consist of large boulders over a cubic yard in dimensions. I asked the district engineer how it was classified, and he told me 86 per cent solid rock. I was told that the cut was originally classified as 30 per cent of solid rock.'

Extent of Steal.

'What classification would ordinarily have been given to that cut, according to the usual railroad practice?' Major Hodgins was asked.

'As my examination was necessarily not as thorough as that which an engineer in charge would be able to give, I will go to the utmost limit of liberality and call it 40 per cent. Now, the price allowed on the McArthur contract was $1.70 per cubic yard for solid rock, 60 cents a cubic yard for loose rock and 30 cents for common excavation, so taking those prices and supposing that the difference between my very liberal estimate of 40 per cent and the official classification of 86 per cent should all have been called loose rock, though, as a matter of fact, a great deal of it was common excavation, the overcharge on that cut alone would be $141,900.

'I asked the Grand Trunk engineer at that point if a classification of 86 per cent solid rock had been put in by the engineers. He said yes. I then asked him what his company was going to do about it. He replied: 'I don't know, but I am reporting the facts to them." "Is there anything more like this in Quebec?" I asked him.

'"It is pretty nearly all like this," was his reply.

'We had a long discussion, and I made up my mind that so long as I was in charge I would not allow the introduction of the Quebec classification on the McArthur contract.'

Instances of Graft.

'I returned to my work and soon found that the Quebec classification was creeping in, in spite of me. Accordingly, in September last, I made an investigation, and I will give you the results obtained in one or two instances. I am quoting from notes taken by my assistant engineer by my instructions.

'At mile 29, stations 1478 to 1483, the engineer in charge of that section turned in 6,394 cubic yards of earth and 10,189 cubic yards of loose rock. According to the specifications there was absolutely no loose rock in sight, and a thousand cubic yards of loose rock would have been an excessive charge.

'At stations 1383 and 1398 the engineer turned in 15,076 cubic yards of loose rock and 26,668 cubic yards of common excavation. In this case a few hundred yards of loose rock should have been allowed as there were a few boulders, but no more, as it was a pure sand cut.

'I made up my mind that I could not stand this, and after conducting this inquiry with the help of my assistant, I warned my engineers that they were not to allow such returns to go in. I told them I would give them one more chance to put the correct returns in the September estimates, or I would discharge them.

'I was never allowed to see the September estimates, however. My resignation was asked for. In my absence, my assistant was the man to have signed these estimates, but they would not let him sign them either. He was sent away to a different part of the road, and they brought up an engineer from St. John, N.B., who signed

the estimates without ever going over the work to see what he was signing for. The estimates for September amounted to $519,808.50.

'My appeal to the government was disregarded, but it was more than a personal matter for me. There are millions of public money at stake. Let the government call for the reports of the Grand Trunk engineers who have been stationed all along the line to check up the work, and then, if they bear out my statements, let an inquiry be had into the doings of Mr. Parent and his enterprising coadjutors on the commission. The truth can very easily be ascertained.'

OTTAWA, April 23, 1908.

The Commissioners of the Transcontinental Railway,
Ottawa, Ontario.

SIRS,—In regard to the article which appeared in the *Manitoba Free Press* of the 18th instant and the editorial in the *Morning Citizen* of the 22nd instant, referring to a letter from Major A. E. Hodgins, now of Victoria, B.C., I beg to state that as far as I know no estimates or accounts for work done have been padded. The Grand Trunk Pacific have made from time to time some general objections as to classification in district 'F,' but until after the dates above referred to no details giving actual points where such over-classification was claimed were submitted to me. As you are aware, I, on the 14th and the 30th of January, issued special circulars to the district engineers giving my interpretation of clauses 34, 35 and 36 of our general specifications, accompanied by a diagram explanatory of same, and I have letters from the district engineers in districts 'A,' 'B' and 'F,' where actual grading was being proceeded with, stating that my interpretation had been and is being adhered to. My letter of the 19th of September last, to the chairman, gives my reasons for suggesting a change in district engineers in 'F' district.

Your obedient servant,

HUGH D. LUMSDEN.

THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.

OTTAWA, April 23, 1908.

Memorandum to the Right Honourable Sir Wilfrid Laurier, Prime Minister:

A letter from Major Hodgins, lately our district engineer at Kenora, Ont., has been given wide publicity in the press, namely by the *Manitoba Free Press,* and the Ottawa *Morning Citizen,* where it was commented upon.

There are insinuations and statements in it that should not be allowed to pass unanswered.

Without laying any specific charges, Major Hodgins makes vague, general accusations that are absolutely groundless. It is plain that the object in view is to cause us annoyance without any regard to truth or public interest.

If Major Hodgins has had in his possession any evidence of irregularities or wrong doing, he should have submitted such to the commissioners. As a corporate body, and being the first concerned, it would have been our duty to investigate the matter promptly. If he had done so and the commissioners had refused to look into his charges, then he might have been been justified in issuing statements to the public. There is nothing in Major Hodgins' allegations to indicate that he is even now in possession of any such evidence.

Taking up *seriatim* the allegations in Major Hodgins' letter as printed in the papers:

1. 'That the government is paying padded accounts for the work done, and that the Grand Trunk Pacific people are making no objection because they merely have to pay the added interest.'

This statement is without any foundation. The Grand Trunk Pacific Railway Company make objections when they see fit, and these are looked into at once with due care.

2. 'They (the commissioners) wanted to change my ideas, based on a good many years experience on the construction, to the classification that is allowed to contractors in Quebec.'

This statement is also without foundation. The commissioners never, at any time, requested Major Hodgins to adopt in his district any classification not in accordance with the contract and specifications. As to the classification in Quebec, it was looked over and found to be agreeing with these, and therefore perfectly regular.

3. 'If Mr. Poulin, the engineer appointed by Mr. Parent to replace me on the western district, has allowed the introduction of a classification similar to that allowed in Quebec, this will account for the increase in the estimated cost of the line. If this increase amounts to $3,000,000 or $4,000,000 it is time the public demanded some explanation.'

Such hypothetical statements of course amount to nothing at all. In the first place, Mr. Poulin was not appointed by Mr. Parent, the chairman, who did not even suggest it, but by the Board, on the recommendation of the chief engineer because he was considered to be the best man for the position and to take hold of the work of reorganizing the district, which had been left in such a bad shape by Major Hodgins. At this point it may be well to remark that classification comes from the chief engineer and not the chairman or the commissioners, as Major Hodgins puts it.

Since leaving our employment, Major Hodgins has talked a good deal openly, in fact much more than professional dignity and the sense of justice would seem usually to permit. It is time, we feel, in justice to ourselves and to the public, before whom there is an evident desire to misrepresent the facts, to call a halt and make it necessary for the accuser to bring facts to substantiate his charges.

You will find attached newspaper clippings in reference to Major Hodgins' letter, and all correspondence relating to the circumstances of his dismissal; also a letter from our chief engineer, Mr. Lumsden, on the same subject.

In conclusion, the commissioners would respectfully request, as they do not wish to remain under the aspersion which such reports cast on them, that the whole matter be referred to and looked into by Committee of the House and that Major Hodgins be assigned to appear before the same to repeat his charges in a specific manner in order to substantiate them if he can. Then an opportunity will be given right minded people to see where the truth is and if public interest would have been better served by keeping an engineer who ignored the specifications, or by replacing him, as was done, by one who will follow them.

The commissioners trust their request will receive early attention.

S. N. PARENT,

Chairman.

EXHIBIT No. 28.

OTTAWA, July 23, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Transcontinental Railway.

DEAR SIR,—In accordance with your instructions, I went out to Winnipeg and walked over that part of the line now under construction in district 'F,' from mile 134 continually to 0.

Progress.

Substantial progress is now being made by the contractor in the prosecution of his work in a general way, but this cannot be said with regard to some of the controlling features of the work, and to which I will refer in detail. But in the majority of the heavy rock cuttings night gangs are employed, but there are several cuttings with from thirty to forty thousand yards of solid rock to be moved in which little or nothing has been done and where double shifts are as yet not put on.

APPENDIX No. 5

Labour.

The labour problem is, as you are aware, one of great difficulty for the contractor to solve. There are at the present time in the vicinity of four thousand men on the work. It is, however, quite impossible to say with any degree of accuracy how many men are employed at any given date, as there is a continual stream of men going and coming from the various camps along the line. From three to four thousand men, in addition to those on the work, could be conveniently employed if they could be had. I was surprised to see a great many cuttings opened up and from 1,000 to 1,500 yards taken out and no men working in them at the present time. This was general all over the line. The various sub-contractors tell me that these were opened up by station men who quit work after receiving their first estimate, which, in their opinion, was too *small.*

The complaints were on account of the classification being too low, overbreak being held back, waste being deducted or water coming for want of drainage. Complaint is also made by the contractors that men leaving for the above causes went to the various centres of labour and reported that the Transcontinental Railway was no place to work, and that no money could be made there. This is a very serious matter for the contractor, who has spent in the vicinity of $75,000 for labour for which he has got practically no return, men brought in at great expense going out without doing even one day's work, and for which there seems to be no redress.

Sub-contracts.

The contractor has let out all his work in sub-contracts. In many cases he has given much more work to subs than they could possibly look after, they being forced to re-sub it to others. By this procedure the original contractor loses the proper control of his work. The practice of re-subbing should be prohibited by the commission on all future work.

Plant.

The contractor has supplied all the subs with an abundance of plant. In fact, in many cases he has put on an unnecessary number of steam drills, steam hoists, steam derricks, etc. Steam plant on railway work is not profitable, and should not be introduced where it can be avoided.

Stock.

The stock on the line is of the best quality, and for the quantity of men on the work is in sufficient number. In some of the camps it is in excess of the number of horses actually required, as there are very few cuts where scrapers can be employed.

Camps.

The camps for the men on this work and the tableware, kitchen furnishings, etc., are the best that I have ever seen on any railway in this country; the sub-contractors have evidently been furnished with ample funds for the vigorous prosecution of the work, could men only be secured and retained after they have been once brought on the work.

Roads.

Roads from the various stations on the Canadian Pacific Railway have been constructed into the headquarters of the various sub-contractors, and when at all possible roads have been built along the right of way or parallel to it. All this has been done at great expense. Telephone lines have also been put in, and are being put in by the sub-contractors. Where these telephone lines exist they should be run into the engineers' camps, the commissioners paying their proportion of the cost, as, in a country like this, where the division engineers can only go over their divisions by

walking, telephone communication with their various residences would be of great service on a line where there is no mail service.

Supervision.

The contractor has on the work three competent men, all of whom are engineers of experience. They have been allotted a certain territory to look after, so there is always a responsible man on hand with whom the commissioners' engineers may communicate.

Clearing.

Clearing on this line should have been done for a distance of 100 feet on each side of the line. The bush is very thick all along the line, and as soon as trains begin to run will all be burned unless more clearing is done.

Classification.

Classification on this work, where the vast majority of it is solid rock, is not a serious matter, and where material has been moved that could be classified—and the greater part of it was moved last winter when it was frozen, such as the opening of cuts, the stripping of rocks, etc.—I found, from questioning the resident engineers and from looking over the progress estimates, that the classification given the contractors has been very low, and in many cases absurdly low, and for that reason alone there are probably 1,000 men less on the work to-day than there would have been if the work had been fairly and justly classified. Classification is left entirely to the resident engineers, and they are all too timid to give the contractor what he is entitled to in that line.

The only engineer on the work who could produce any statement showing what the profit or loss was on the various cuttings on his work was Mr. F. J. McIntosh, division engineer at Wabigoon river; he looked after the classification on his division, consequently it was more reasonable than on the rest of the work.

Overbreak.

The rock on this work is interspaced with seams of clay, varying in width from a hair line to several feet in width, and these seams go to the bottom of the deepest cuts, consequently, there is a great deal of overbreak all along the line. I carefully examined many cuts where the overbreak was bad, and in no instance could I see that it could be attributed to excessive blasting. This overbreak it appears, has been held back by the engineers without any other reason than that it was just overbreak. I believe that they are paying for a certain proportion of it, but none of them pay for it all, when it was perfectly plain that it was unavoidable. This, of course, is the cause of much discontent among the station men along the line, and has been since the work began.

Waste.

On the whole line I only saw two cuts where there had been deliberate waste of rock by heavy blasting (the waste in both cases would not amount to over a few hundred yards.) Yet waste seems to have been deducted from station men when it was clearly unavoidable in side cuts along the lakes, with the result that these cuts are now idle.

Surface Drainage.

Surface drainage seems to be a non-existent quantity on this job, at least I could not find any in my travels. Bogs innumerable and without end, but no drains other than a few small ones made by station men for their own benefit and at their own expense.

Remarking upon this to the resident engineers they invariably told me they could get no authority to order ditches to be dug. They had written letters and sent in plans for proposed ditches, but had heard no more about them. In many instances there are bogs on top of large rock cuts that must be drained before the cuts are started. The contractors are asking for drains to be laid out and cannot get them; resident engineers waiting for orders, division engineers likewise.

Openings.

With regard to the various openings along the line in many instances the size of these openings have never definitely been settled. Whose business it was to settle these questions I could not find out.

Location.

Long stretches of line have been re-located since the contract was let. The contractors complain that they were delayed in the building of the camps until the location of the line was decided on. In one case in particular the line was changed after work had been done and camps built. The contractor complains that he has never been paid for this.

Trestles.

No permanent wooden trestles of any kind should be built on this line; they will, without doubt, be soon burned if they are put in. The country is thickly wooded and is liable to burn at any time. Many camps have already been burned from that cause. Apart from the danger of fire, it will be very much less costly and very much more satisfactory for the government that the commissioners do not leave any work to be done on this line that can be charged to capital account. From what I saw of the country, I considered that the contractors' price for train-hauled material was low and should be taken advantage of to complete all fills during construction, when the commissioners' engineers will have some say as to where the material will be hauled from, and, more important still, they will be in a position to say how many yards were actually Lauled, and the government will thereby only have to pay for work actually done; whereas, if this work is left to the operating department of the Grand Trunk Pacific, they will haul material as many miles as they please, side-track trains for hours at a time, quantities will be what they please to call them, and the cost to the government will be whatever they like to make it. The district engineer and any of the divisional engineers I spoke to on the matter agree with me in this.

Stream Tunnels.

The contractor refuses to put in any more stream tunnels of less size than four cubic yards to the lineal foot, as the engineers have reduced the price per lineal foot in proportion to the reduction they have made in the size of the tunnel. This has been done in accordance with a ruling given by the commissioners' law clerk, who maintains that clause 138 of the specifications, which refers to line tunnels, also refers to stream tunnels. Clause 138 does not, in my opinion, refer to stream tunnels and never was intended to refer to stream tunnels by the engineers who wrote the specifications. I consider the contractor is quite within his rights in refusing to dig tunnels at the ridiculously low price of $10.93 per foot when his contract price for this work is $25 per foot.

Sidings.

Sidings have not been graded on the prairie section. This should be attended to at once, otherwise the contractor will not be able to run his track-laying trains.

Tanks.

Arrangements for building tanks should be made at once, in order that use may be made of them by construction trains; otherwise much time will be lost by engines running all over the line for water.

Completion of work within a Limited Time.

Under present arrangements I see no possibility of this contract being completed within a reasonable or limited time. There are over sixty cuttings or more on the line in which work could be pushed with greater vigour. The majority of these can and will be put through in from 12 to 18 months by using double shifts. But the long tunnel just east of the Winnipeg river, under the present management of both the engineers and contractors, will not be dug in twenty years. Until different management is placed on this particular job, it is merely a waste of time to force work on any other part of the line. Here we have a tunnel one thousand eight hundred feet long on which no work has been done, apart from a little scratching at both ends. The contractor has no reason to give for not having done much work at the west end; but before he can get at the east end a lake has to be drained, the surface of this lake being about six feet above grade. A ditch has been dug to do this, but only four feet of water have been drained so far. To make the scheme a success the water should be lowered eight feet. I do not believe this can be done; and as the engineers refused to pay for the cost of this work, the contractor has quit trying to lower this lake.

In order to get at the east end of the tunnel a large ditch 14 feet deep has to be dug from the mouth of the tunnel to the lake, as right over the proposed end of the tunnel is a bog, and from the end of the tunnel eastwards extends a cut 1,700 feet long. This, for want of drainage, is going to give much trouble to get out. I understand that over a thousand men have worked on this particular piece of work, and when I saw it there were only 23 men working. It is a nasty job and men will not work in water when plenty of work is to be had elsewhere.

The district engineer and the division engineer do not agree as to how the contractor should be paid for this work; neither of them take any interest in it, and owing to the mode of payment the contractor is losing $1 per day per man, so he is in a very unhappy state of mind. This piece of work requires your immediate attention, as there is, practically speaking, nothing being done on it; and under the most favourable circumstances, it is a three-years job.

Change of Line.

I understand that the G. T. P. Ry. Co. has advised a change of line at the east of the present contract on dist. 'F.' They, in the meantime, have abandoned the last 12 or 15 miles of their Fort William branch; their contractor has taken off his men and no work is being done there. They now suggest that this piece of line be taken over and completed by the commissioners. The reason for this is perfectly plain; the last 15 miles of the Fort William branch are very heavy, cuts of particularly bad rock with 70,000 c. yds. are untouched. The crossing of the Pelican river is a three-years job. The G.T.P. contractor will lose a lot of money on this bad work. He will have his time and plant tied up for the next three years on a losing job, when he might be free to tender on more profitable work. And worst of all, if the general manager of the G.T.P. does not succeed in unloading this piece of work on the Transcontinental our contractor will have the eastern end of his work graded and be asking for rails before the G.T.P. people are in a position to haul them over their branch line.

I consider that the commission has been very badly advised in putting on a survey party to look up a better location for the G.T.P. branch, and that party should be called in at once. By all means let them do their own surveying and build their own line. If they are left to their own resources, we will probably be finished first.

APPENDIX No. 5

Engineering.

The engineers in district 'F' lack confidence in themselves; the evasion of responsibility is the order of the day from the district engineer down to the youngest resident. There is too much letter writing about things that must and should be settled by the men on the ground, if the work is ever to be done.

It is quite evident that the contractor has never had the good-will or proper co-operation of the majority of the commissioner's engineers on this district, without both of which it is impossible for the work to be carried on in a proper spirit and a businesslike manner.

Neither the district nor assistant district engineer have ever been over the line, and if the work is to be carried on with proper despatch an assistant district engineer should be appointed whose duties will be entirely in the field and whose place of residence will be at or near the Winnipeg river crossing. This man should be given authority to settle all matters relating to borrow and waste ditching, classification, force work, size and kind of structures, &c., &c. If this was done the work would not be held up all over the line waiting for decisions that never come.

The position of assistant district engineer at Kenora should be abolished, or changed to that of office engineer, which the present incumbent has really made of it

At present the engineers on this work are no more than so many clerks, simply writing letters and reading the answers, and for all the engineering they are doing, they might as well be left out.

Yours respectfully,

GORDON GRANT,
Inspecting Engineer.

OTTAWA, July 31, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—I am directed to request that you will notify engineers Grant and Hodgins to be on hand to-morrow for appearance before the board.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 27.

OFFICE OF THE CHIEF ENGINEER,
OTTAWA, July 31, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—I beg to hand you herewith a report of Mr. Gordon Grant, inspecting engineer, and a reply to same from Mr. A. E. Hodgins, district engineer 'F.'

From this it will be seen that Mr. Hodgins denies nearly all the statements made by Mr. Grant, and I certainly can make no intelligent report on these without going out on the work and judging for myself, especially so as I do not agree with certain statements made in portions of each of their reports.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 29.

OTTAWA, July 31, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—In reply to your instructions *re* Mr. Grant's report, I would have preferred to have had a copy before I left Kenora, in order to have been able to refer to various records.

Cuttings Opened up and no Men Working.

Reference to the progress profile for June will show that there are not many of these. In some instances, at the commencement of the work, some men may have quit because the overbreak question was not settled. Some other reasons for men quitting was that a foreman or powder man was killed, and no one in the gang to take their places; men were charged too much for powder or other supplies; Foley Bros. sent for them and gave them more money. Many men quit because they could get out of paying back their fares by working on the Canadian Pacific Railway. Foley's men are, in a large way, responsible for spreading all sorts of reports to prevent men staying on the Transcontinental Railway.

Clearing.

It has been difficult enough to get the contractors to clear 100 feet. It has always been intended to do extra clearing as soon as more men were available. Men cannot be spared at the present time from the grade.

Classification.

This is not a serious matter. Very little classified material was moved last winter. All engineers were instructed by the chief to classify frozen material in cuttings or loose rock. Classification is, in my opinion, and in the opinion of Messrs. McArthur and Hazelwood, fair; and, with the exception of one or two cuttings, there is no dispute. Classification should be left to the judgment of resident engineers. If they are in doubt, they can consult with the division engineer. All the engineers have been instructed by me to classify liberally in loose or solid rock.

Mr. McArthur has never asked me to re-classify any particular cutting or subcontract.

All engineers can provide statements of profit and loss on contracts, and this information is also in the Ottawa office on every contract since the work started.

Overbreak.

It is not possible to measure overbreak exactly; for progress estimates it is done by tape. I would say nearly all the overbreak that has been taken out of cuts has been returned. A large amount of shattered rock still remains that will eventually have to be removed to make cuttings safe. Up to the end of June 77,800 cubic yards were returned. In some cuttings 25 per cent of total yards moved is overbreak. In May 63,251 cubic yards were returned for overbreak. I have given instructions to division engineers to return all overbreak they can in their judgment allow.

If all the overbreak shattered but not taken out of cuts was returned now, there would be nothing returned for it when it was finally taken out.

In my opinion, overbreak, in many cases, is due to overloading, but even this is measured up.

In shallow cuttings overloading causes a large amount of waste. In heavy cuttings the waste is not so great, and overloading causes overbreak at the bottom of the slopes.

I have seen more than two cuttings where there has been excessive waste. The waste is there and can be seen by any one at any time to judge for themselves. Engineers are endeavouring to discourage deliberate waste and contractors are kicking

at this, because they wish to waste all they can. It pays to do this, and some station men are disappointed with a shot unless they have wasted enough rock to pay for the powder.

Surface Drainage.

Engineers have been instructed to run tap drains wherever possible. Bogs and muskegs are difficult to drain properly when the grade crosses. As a case to illustrate: On Chambers Bros.' work west of the crossing there is a cutting with two swampy places in it. To drain one side of this, a ditch about 500 feet to the north will drain one side. This ditch would have to be dug to a depth of about 10 feet at the start and 14 feet at end in slime and oose. The division engineer is of opinion that the sides of a ditch in this material will not stand, and it would be better to take the water down the side of the neighbouring rock cut. The tap drain would only drain one side.

A question of this kind should not be referred to a district engineer, who is not as conversant with local conditions as the men on the ground.

Openings.

Quantities in all openings have been figured out and can be seen on profiles in all offices, and a list of openings has been made out by all division engineers. They have been all instructed to increase them if they think they are not large enough. In most cases the present division engineers located the line they are now in charge of and named the size of the openings on profiles sent in. Their instructions are to err on the large side in all cases. In several cases we have had to put in dry masonry culverts in order not to delay work, because there was no cement on the ground, or on account of culverts not being put in before frost came. I can produce lists of culverts for each division, showing any alterations since location profiles were sent in.

Location.

One contractor may have been delayed in building camps, by not having enough men to cover work not being altered, his men were all employed. The reason for this alteration was that soundings taken in the hurry of location from canoes did not show actual depth of mud. Soundings from ice necessitated changing line on Canon lake. In most other places where line was changed contractors were not on the ground and clearing not started. In the case where line was changed when work was done and camps built, the contractor has not yet sent me his bill, and when I asked him for his own valuation on holes drilled, a root house, a small storehouse, and the camp (2 buildings) he asked me to go out and look at them, as he preferred my valuation. I suggested that it would be better for him to submit his bill of actual cost, plus 10 per cent. As soon as this arrives I will certify to it.

Trestles.

I have thrown out as many trestles as possible and would throw out more if I had permission to borrow rock. There is very little chance of getting trainfill within reasonable haul, and trainfill, added to cost of trestles, in most cases, would be more expensive than rock borrow.

It is difficult at present to give exact figures how far material in cuttings (with overbreak and waste an unknown quantity) will make up fills on soft bottoms or in water, but it is possible to sanction borrow if engineers are made responsible to use judgment and discretion. The same can be said with regard to waste in a few cuttings where overbreak is swelling the quantities, and there will be a surplus of rock in cuttings eventually. As we are not in a position to give exact quantities now to the chief, the question is held up until we are in possession of exact quantities, or until the cuttings are out.

Stream Tunnels.

I agree that $25 per foot be paid for all stream tunnels up to 4 cubic yards per foot run, even if clause in specification refers to these or not.

Sidings.

Sidings on prairie were located, but positions were changed and referred to Ottawa; then the G.T.P. engineer suggested some changes. By this time contractors had moved their outfits. When prairie work was again started this spring sidings have been put in when contractors could reach them from the camps.

Limited Time.

The long cutting east of Winnipeg river. The tunnel is about 600 or 800 feet long, not 1,800 feet. I have constantly urged the contractor to push this work. For two months nothing was done, the reason being that the sub-contractor was sick and not on the work.

The lake north of the tunnel can be drained, and I was informed the day before I left by Mr. McArthur, engineer, that its present level was now only three feet above the grade in the tunnel.

When this was proposed I instructed engineer to keep strict force account, as we might have to pay for this by force account if the work proved difficult and impossible to measure or classify. There was a section shown, part of which was sand and boulders, and the other portion mud. I instructed engineer to excavate in sand and boulders *only*, and that mud should come out by action of water. During my absence in Quebec I understand an attempt was made to dig mud, and, as I had given no order to have this work done by force account, I am told it was to be classified as common excavation by the divisional engineer. If this was done it was unfair to contractors and a misrepresentation of my instructions. It is not necessary to sink ditch 14 feet to get at tunnel. I understand that the heading has actually been started. If it is found that the sides of the ditch will not stand, a tile pipe can be laid. If Mr. Grant believes this bog cannot be drained, why does he refer to draining similar places, (page 5, surface drainage) as being possible. I might also add that the 14 foot ditch was laid out to help the contractor get room to work into the centre of the cutting, for, as soon as the lake is lowered, and cutting out all surplus water above the centre line can be taken in a tile pipe to the east.

The last estimate I got on the cost of the ditch to drain the lake was $5,000. Mr. Tye informed me the actual cost to date was under $4,000. In estimating the cost before starting this work, I figured it all at loose rock price. What solid rock turned up afterwards would, of course, be paid for as such.

I was not able to go up to this piece of work after I returned, as Mr. Heaman was away, but when I found out men were working in wet mud, I gave orders to have it done by force account. Mr. Grant was the first to inform me they were in mud.

There are also 26,000 cubic yards to be wasted. Three months ago I instructed Mr. Tye to waste anywhere, and gave him a free hand. I urged upon him the importance of doing something, as the sub-contractor was away starting some other work he had on the prairie.

I took sufficient interest in this particular piece of work to call your attention to it the last time you were in Winnipeg, and on several other occasions.

Engineering.

The engineers on this district do not evade responsibility. I am willing to take all the responsibility you can give me. Several questions have to be referred to the chief engineer for approval which might be left to the engineers of the district. I have been over the greater portion of the line and Mr. Heaman has been over all but a portion of Mr. McIntosh's division. Mr. McIntosh asked that I should go instead

of Mr. Heaman, and I did. Some months ago I recommended Mr. McIntosh as assistant district engineer, but he declined as he wished to gain experience on construction, and said he would be in a position to learn more as divisional engineer than as assistant district engineer. It was not a question of salary, as I had promised to let him live at his present headquarters and give him two divisions on construction and all the location east of Peninsula crossing. Most of this he has already been over. I spoke to him again last February, going over his work with him, and he again declined. He has now changed his mind and will accept.

There is no position of assistant district engineer at Kenora. Mr. Heaman spent the divisional engineers did not consider that he should have got the appointment. I the divisional enginers did not consider that he should have got the appointment. I visited three divisions myself. I am perfectly satisfied with Mr. Heaman, and have every confidence in his ability and judgment, and, if I find there is still any friction, I must ask for authority to discharge any division engineer who is inclined to make trouble. Mr. Heaman and myself would have gone over the line this summer, but as both of us have been away at different times, in May, June and July, we have been out on the work very seldom, and then only for short trips.

With reference to the last paragraph of Mr. Grant's report, it is not only uncalled for, but untrue, except with regard to my correspondence with various branches of the head office.

If I am given a free hand to do anything that I think advisable in the interests of the work, I can guarantee that there will be no friction between the engineers and contractors, and if any engineer shirks responsibility he will be discharged. Resident engineers do not write to me and I do not write to them, and I see all division engineers once and some times twice a month. There cannot be much unnecessary correspondence.

A fair criticism by the inspecting engineer would have been very acceptable, and if this report had made reference to special points on the line where drainage was necessary and had not been put in; what openings had not been definitely fixed; when sidings had not been built; where waste or overbreak had not been allowed, giving the station or mile, I would have been in a much better position to reply. As the report is a condemnation of the engineers of the district, and myself in particular, and if this reply does not convince you or the Board that matters generally are not in the deplorable condition represented by the report, I must ask you to come up as soon as possible and investigate, and if you cannot come, I would suggest Mr. Butler or Mr. Schreiber.

Yours truly,

A. E. HODGINS,
District Engineer.

KENORA, August 6, 1907.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—I send you to-day, per Dominion Express, J. D. McArthur's progress estimate for the month of July, comprising single copies of Forms Nos. 4, 5, 98, 45K, (division engineer to district engineer and district engineer to chief engineer) and 45X, triplicate of Form 101, and statements relating to same, two copies of extra order No. 23 and only one of order 37, two copies of this last order being already in your possession.

I enclose herewith a copy of a letter from Mr. McIntosh relating to an error of 100 cubic yards of loose rock on residency 25, stn. 3974-50; this item was erroneously entered in June and has been deducted in the current estimate.

A statement is attached to Form 4, residency 25, showing certain amounts which were previously returned as loose rock and common excavation now returned as solid rock.

Mr. McIntosh writes *re* same :—

'These transfers I have deemed advisable to make at the present time, as, having regard to the cost of working and material, they would be properly classed as rock excavation.'

You will note on residency 26 that 33 cubic yards of dry masonry have been deducted, and a like amount has been added to item No. 17, paving.

On form 45X appears an amount of piling delivered, this material is off-loaded at the material yard, and it would not be fair to enter this under item 10 on residency 39, as it will be split up and used on several residencies. In due course it will be deducted from form 45X and entered under items 10 and 11.

The extra work appearing under order No. 23 is the first progress of this order, form 101 covering same will be sent to you as soon as received from Mr. A. G. MacFarlane.

For explanation of extra work at Neck Lake, see my letter of yesterday's date. Form 101 for this will also be sent you as soon as received.

Yours truly,

A. E. HODGINS,
District Engineer.

Enclosure.

Wabigoon Falls, July 25, 1907.

Major A. E. Hodgins,
District Engineer, N.T.C.Ry.,
Kenora, Ont.

Dear Sir,—With regard to your letter No. 541 *re* an error in addition on form 4, item 5, loose rock, residency 25, for the month of June, there appears to be a mistake in this that 100 c.y. of loose rock were returned at stn. 3974-50 culvert excavation as being done, which item should not have been shown there at all and was due to a typographical error. This will leave the total to date estimate for June as originally, viz.: $294,525.63.

Yours truly,

F. J. McINTOSH,
Division Engineer '6.'

August 24, 1907.

A. E. Hodgins, Esq.,
District Engineer,
Kenora, Ont.

Dear Sir,—The accompanying questions and answers thereto made by Mr. Grant, inspecting engineer, are so at variance with statements made verbally by you and others to me, that it is incumbent on you to reply as soon as possible thereto, and to explain, and furnish written proofs of the reason for the order you told me you had given to division engineers *re* classification, and which I told you I would not approve of.

Yours truly,

HUGH D. LUMSDEN.

Enclos.

APPENDIX No. 5

Questions asked Mr. Grant.

1. Did you give any instructions to division or resident engineers?—A. No.

2. Did you advise division or resident engineers as to mode of classifying material? If so, what did you advise?—A. I gave all engineers on the work most distinctly to understand that I had no authority to give them any instructions.

3. Did you express to such engineers, or to the contractor, sub-contractors, or contractors' engineers, your opinion that they were not fairly treated by the engineers on the work?—A. The classification on Engineer Scott's work was so low that I did say it was low in my opinion, while Mr. McArthur and sub-contractor were present, also Hazelwood and the contractor's engineer.

4. Did you make the statement to any of them that all material not classified as loose rock should be classified as loose rock, or cemented material?—A. I certainly did not.

5. Did you advise or suggest the classifying of material by force account irrespective of what the material actually was, in order to cover cost of the work? If so, state what you did advise, and if 10 per cent was to be added, or not?—A. I advised nothing, but I did suggest to the engineers that they should find out from their own force accounts what the cuts were costing as a guide to classification.

6. State points where ditches had been asked for by the contractor and not laid out?—A. On Guy Campbell's work, Anderson and Johnson's work. Resident engineer Harris told me he could get no authority to lay out ditches. He had made plans for ditches, sent them in once and got no answer.

7. Did you have any conversation with resident engineer Harris in regard to payment for roads made by the contractors for the purpose of opening up cuttings to enable them to start a second lift? If so, how did you suggest such should be paid for?—A. I suggested that the road be made from material from the cut, and that the material used in the road be not deducted from the estimate.

OFFICE OF THE CHAIRMAN, August 24, 1907.

Memorandum for Mr. P. E. Ryan, Secretary of the Board.

During the conference held yesterday afternoon between the commissioners, the chief engineer and Mr. Grant, inspecting engineer, at which you were also present, I found that Mr. Lumsden had before him a letter from Mr. Hodgins, District engineer 'F,' dated the 6th instant, transmitting the monthly estimate for his district for July. In this letter were remarks concerning the classification of certain items of work different from the one made in the previous estimates.

Reference was also made therein to a document, bearing No. 4, attached to the estimate. As it was the first time I heard of the letter, would you let me know whether it was not submitted to the Board in my absence, as it happened occasionally of late that I had to go away on business while other commissioners remained here.

In referring also to the July estimate, I find that document No. 4 does not form part of the original we have here. I would like to know if you ever had it in your possession, or have it now, as I wish to take communication of same in order personally to seek an explanation and information from the district engineer, or his assistant, and the chief engineer, that will make me acquainted with the circumstances of this change in the estimates and the reasons that justify the same before I can approve of it and certify the papers as required.

S. N. PARENT,
Chairman.

OTTAWA, August 24, 1907.

Memo. for Hon. S. N. Parent, Chairman.

Replying to your memo. of even date, I beg to say that I have not heard of or seen the letter from district engineer Hodgins, dated the 6th instant, *re* his July estimate of work done by contractor J. D. McArthur, before Mr. Lumsden read the same at the conference yesterday. I can state definitely that it had previously not been submitted to the Board either during your presence or absence.

Document No. 4, referred to in your memo., is not now, and never has been, in my possession. This document, with other necessary documents, are submitted by the engineering department to our accounting department to enable them to check up the estimates, and after this checking the accounting department return them to the engineering department. Mr. Gow, of the accounting department, who checks the estimates, advises me that, so far as that department is concerned, the approval of the chief or acting chief engineer, or, in the absence of the chief or an acting chief, of the assistant chief engineer, of any change of classification would be accepted by the accounting department as final, their checking applying, not to engineering details, but to the accuracy of the mathematical calculations and extensions.

This July estimate, when submitted to and approved by the board, did not have attached Mr. Hodgins' letter, dated the 6th instant, or document No. 4 referred to, which Mr. Lumsden stated at the conference yesterday had been forwarded to the Auditor General.

P. E. RYAN,
Secretary.

OFFICE OF THE CHAIRMAN,

August 24, 1907.

HUGH D. LUMSDEN,
Chief engineer.

DEAR SIR,—Herewith you will find copy of a memorandum I sent to-day to the secretary of the Board, and copy of his reply, which explain themselves.

It has become evident to me that things have not been conducted so far in district 'F' as they should. This fact was particularly impressed on the commissioners as a result of conversations we had with the engineer in charge, Mr. Hodgins, and also of complaints made repeatedly by the Grand Trunk Pacific Railway Company regarding the unsatisfactory progress of work on that section. With a view of securing fuller information on the various parts of the work now under way, namely, in district 'F,' the commission deemed it advisable to appoint an inspecting engineer, who would keep us posted as desired, and Mr. Gordon Grant was called to fill the position. He went over the ground and made a report which was submitted to the board, showing that the engineer in charge of district 'F' and his staff of assistants, with a few exceptions, had not devoted to the work in hand all the attention which could reasonably be expected. Among other things, it was stated that the district engineer and his assistants had neither of them since construction began, gone over the work as they should have done. In the opinion of the inspector, reported to the Board, the classification of work has been faulty. In his report, replying to that of Mr. Grant, Mr. Hodgins suggests as a remedy to these defects, that the resident engineers should be the ones to look after the classification. For my part, I entirely disagree with this view. Such a policy would certainly not be conducive to the uniformity desired, and judging from our present experience there, we would very likely have as many different ways of classifying the work as there are engineers. In certain cases, the classification would be too strict, and in others not enough. And again, some engineers on their own judgment might be inclined to put under the arbitrary description of 'force account' items which should be duly classified. This practice cannot be allowed under any circumstances, as entirely contrary to the contracts.

APPENDIX No. 5

There is a letter from Mr. Hodgins, dated the 6th inst., addressed to you, which should have been submitted to the board, together with document No. 4 attached, so as to give every available information on the subject. They came to our notice incidentally. It would appear from its contents that after certain items had been classified a change was deemed necessary and other classifications made, which it would seem received his approval. Such a state of affairs shows that there has surely been negligence somewhere in the management of this district, and, from a consideration of these facts, the natural inference would be that the district engineer is not competent to handle properly such work as he is now entrusted with. Under the circumstances, it is the duty of the chief engineer to take whatever means are required to put a stop to conditions which have already existed too long. Among the points of first importance requiring your attention is to find and suggest a way to the different district engineers and others to ensure, as much as possible, a uniform classification according to the plans and specifications on which the contracts are made with the contractors. It is essential that there be no misunderstanding on the subject. In this connection I might point out that the commission never authorized any one; nor can it do so, to disregard in any respect the letter of our contracts and specifications, which must be the only guide to go by, and that for no reason can anything be paid to the contractors or their sub-contractors which is not provided for in the same. At the same time, it must be borne in mind that contractors are entitled to a fair and reasonable classification, based as already stated. We cannot deprive them of what is rightfully their own under the contracts and specifications.

It was mentioned by you that Major Hodgins had stated that he had changed the classifications of certain items of work in order to meet our wishes. In that case, he should be informed at once that no such changes should be effected, as any instructions to that effect must come direct from you; and, moreover, inasmuch as the commissioners never instructed him yet in that sense, nor did they express the desire to Mr. Hodgins to make any such changes interfering in any way with his right to make classifications just and reasonable, based upon the specifications.

Furthermore, in order to avoid the risk of any difficulty later on, it should be made a rule as far as possible that the classifications receive the approval of the engineer representing the Grand Trunk Pacific railway at the various points where there is work going on.

In conclusion, as documents explaining changes made in certain estimates of district 'F' were added to the same after they had gone through and without our seeing them, I must decline the responsibility of certifying to the said estimates before being furnished with a full explanation of the matter.

Awaiting a reply at your earliest convenience.

Yours truly,

S. N. PARENT,
Chairman.

AUGUST 24, 1907.

A. E. HODGINS, Esq.
District Engineer,
Kenora, Ont.

DEAR SIR,—Wired you to-day in cypher as follows: completed worshipped obligato argumentative Joseph international transferable drag environ cluck naval beguile assign perplexing convicted antechamber specfications over turned worshipped obligato beguile aria calumination memoralized drag environ significant beguile object antechamber transferable requirable thunder examine wretched likewise stoned till helper soothing clucking.'

Which means, commissioners will not approve your instructions to divisions engineers. Classification must be as per contract and specifications otherwise they will not be approved by me. Division engineers should be notified to so classify and accompany their estimates with letter stating they have so classified.

Yours truly,

HUGH D. LUMSDEN,

THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.

OFFICE OF THE CHIEF ENGINEER.

OTTAWA, August 27, 1907.

Hon. S. N. PARENT,
Chairman, Transcontinental Railway Commission,
Ottawa, Ont.

DEAR SIR,—In reply to yours of the 24th instant I beg to say in regard to the unsatisfactory progress of the work in district 'F' that, in my opinion, this was attributable to the lack of labour and its quality, and not to the engineers on the work.

The district engineer, or his assistant, were not, in my opinion, on the work actually under construction as much as they should have been, but how far the latter's movements were governed by orders from his superior I am unable to say.

In regard to the classifications of the work, I am now, and always have been, of the opinion that the resident engineer on the work is the proper person to make the classification in the first instance, as he sees the work from day to day, and makes the necessary measurements. That his classification should be confirmed, or amended, by the division engineer, who should go over the ground with the resident engineer several times during the month, and this should be further confirmed or amended by the district engineer, or his assistant, who should go over the work with the division and resident engineers as frequently as possible, and see that the classification is as uniform as practicable throughout the district.

In regard to Mr. Hodgins' letter to me, dated the 6th instant. This, together with other letters and forms accompanying the July estimate, should have been handed by my accountant (who checks the estimates) to my assistant in my absence, and then sent to the Board, but as heretofore these had not been asked for, they were not sent. I shall see in future that this is complied with.

Mr. Hodgins' conduct in issuing without authority from me, orders to his divisional engineers to classify cuttings by use of force account, irrespective of the actual material in them, was unwarranted, and on his informing me of his having done so I told him I did not and would not approve of any such order without authority from the commissioners. He gave me as his reasons for so doing that he understood this was the wish of the commissioners, and further stated that he had given these instructions owing to the statements made by Mr. Grant, inspecting engineer, to sub-contractors and others, and also stated that he was influenced to do this from his knowledge that many of the sub-contractors would throw up the work if something was not done at once, and he relied on having a decision in regard to this matter before the end of August. As you are aware, Mr. Grant in his replies to questions asked him by me, denies having given any instructions, or having told the contractor, or his sub-contractors, that they were being unfairly dealt with by the engineers on the work, except on Scott's residency.

I have informed Mr. Hodgins both by wire and letter that you do not approve of his instructions; the classification must be as per contract and specifications; and that division engineers should be notified to so classify, and accompany their estimates with a letter stating that they have so classified, failing which the estimates will not be approved by me.

APPENDIX No. 5

I also sent a letter to Mr. Hodgins enclosing copy of questions asked Mr. Grant and his replies thereto (copy attached).

In view of the present state of feeling in regard to district 'F,' I have come to the conclusion that it might be well to replace Mr. Hodgins by appointing some engineer, who must be of good standing and extensive experience on construction in a rough country, in charge of this district, and that he be given another assistant district engineer, as well as the present one, such assistant also to be a man of considerable experience on such work.

I agree with the idea that as far as practicable the classification on each district should receive the approval of the Grand Trunk Pacific engineer, and such approval should be obtained from time to time in writing, if possible.

I beg to hand you herewith copy of July estimate, together with forms and letters referred to.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

KENORA, Sept. 4, 1907.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—In reply to yours of the 24th August, 1907. the reasons I had for giving the order to classify partially by force account were as follows :—

The contractors were losing money on mixed material because of the continuous wet weather we have been having for the last two months.

The rate of wages has risen from 17½ cents to 25 cents per hour since the contract was signed, and the quality of the labour very poor.

Contractors claimed that if they did not get some of Mr. Grant's promises they would pull out, and that the government should not expect to get the work done for less than cost.

Force account as a guide for classification, not as Mr. Grant suggested, but in the manner I explained to the engineers would be justifiable under the present conditions.

On the double tracking of the C.P.R., resident engineers classify altogether by force account plus 10 per cent. On the G.T.P. branch similar classification to that I suggested is in force, and I am given to understand that force account classification is done on District 'C' (?) 'B.'

After having explained these conditions to you at Mr. Willet's, and after the discussion between Messrs. Macfarlane, Willet, yourself and myself, it was finally agreed that it was the best thing to do under the circumstances, only you had no authority to sanction it. I informed you that I thought the commissioners would sanction my actions, as something had to be done at once. I pointed out that this reclassification could not be made in one estimate, as there was not sufficient time, and that there was ample time for you to return to Ottawa, lay the matter before the Board, and wire me before the estimate went in. I sent no written instructions to engineers.

Since I received your wire instructions have gone out not to classify as I suggested, and the estimate will not be based on my suggested classification.

The classification I proposed was in mixed material only, not solid rock, and in some cases we would not have been able to classify contractors up to the cost of the work. It would have amounted to very little, and would have cheered every one up, and helped things along for the next month or two, when I hoped labour would be more plentiful. In many cases cuttings are going behind for want of sufficient men to work them.

Yours truly,

A. E. HODGINS.

OFFICE OF THE CHIEF ENGINEER,
OTTAWA, September 24, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—In regard to the situation in District 'F,' I beg to submit my views.

In May, 1906, a contract was let to Mr. J. D. McArthur for the construction of 244 miles from near Peninsula crossing westerly. The rates in this contract were, in my opinion, low, especially for the timber, earth and loose rock, but had the current rates of wages and price of timber remained as they were, no doubt the contractor would have completed the contract with a fair margin of profit.

Owing to the great demand for labour in the west, wages, almost immediately after he took the contract, went up 25 per cent and timber about the same amount. As labour is one of the principal items of expense in a contract of this kind, it naturally follows that the contractor, or his subs, must go behind on such items as he tendered low on, and I have no doubt the statement made—but not by the contractor—that he is losing money on considerable portions of this work is correct, especially so when the poor quality of the labour and the difficulty and cost of securing and retaining it is taken into consideration.

As to classification, this, in my opinion, should be the same whatever the prices in the contract may be, the material moved not being thereby changed.

In regard to rock, there should be no difficulty in arriving at its quantity, except as to the amount outside the regular slopes, which, owing to slips or slides, is unavoidable.

Mixed cuttings, consisting of common excavation, loose rock or cemented material are much harder to classify, and the resident engineer, who sees the work from day to day and makes the measurements, is in the best position to make a fair classification of same, but there is often a wide difference of opinion between experienced engineers as to such classification, but no rock should be allowed except such as is actually in the cuttings.

Engineers in charge of work where contractors are losing money are in anything but a pleasant situation, but they should not be expected to make their classification different from what it would be were the contractors making money. They are, however, very liable to do so when they know that the estimate does not cover the cost of the work.

The situation in the easterly 190 miles in District 'F' is at present a difficult one, it being imperative that the work should be pushed as rapidly as possible; and in my opinion the use of standard timber trestle in many places would greatly facilitate the construction, but the engineers, knowing that the contractors' prices for such are too low, hesitate to recommend any, but apply for permission to borrow rock (which, in most cases, is the only available material) to make up large embankments. In cases where the bases are on bare rock and in a considerable depth of water, I am prepared to allow such borrow sufficient to make up a 12-foot bank to grade, or if the grade line is a considerable height above the water, to make up a bank to a height of say two feet above high water and of sufficient width to carry a trestle up to grade, but in very large fills wherever standard trestle can be used it would be a great saving in time and money over filling with rock. I have before me at the present time requests for such borrow at twelve points, covering 216,000 cubic yards of rock, and it is highly probable that the quantities at these points will be considerably increased, and no doubt similar requests will be made for numerous other points. There are numerous other places where temporary trestle might to advantage be used, but as such would have to be filled by the contractor before the opening of the road for traffic, ones of large dimensions should, as far as practicable, be avoided, as the filling takes up considerable time.

As to what is called overbreak in rock cuttings, I find that the returns for July

show such to be about 11:6 per cent of the total rock removed, which to me seems exceptionally large, as few, if any, of the cuttings are as yet properly trimmed.

In reviewing the whole sutuation in District 'F,' I am of opinion that it would be a grave mistake to place the contractor in the position that he would have to abandon the work, as I am satisfied it would in the end cost more money to complete than if he were given some little assistance. Such assistance should not be given by the engineers classfying material other than according to specifications, but might be given by authority from you to increase the prices east of mile 190 for item 5, loose rock; item 6, common excavation; items 23, 24, 25, 26, 27, 28, 29 and 30 in reference to timber; item 74, train-hauled surfacing; and item 75, ballasting; or, failing your being in a position to do so, by instructing me in writing to classify all material other than solid rock, loose or easily worked sand, gravel or muskeg, under the heading of item 5, loose rock, and use rock borrow in place of trestle wherever common excavation for the purpose of making up embankments is not obtainable within a reasonable distance, or to pay for standard trestle at cost plus 10 per cent. Whatever is done, the force on the work should be increased by at least two thousand men.

In regard to a successor to Major Hodgins, I would approve of the appointment of Mr. S. R. Poulin, district engineer, District 'D,' as district engineer 'F,' with Mr. Foss as his assistant, on the understanding that if Mr. Foss is satisfactory he would, after the expiration of say three months, take the position of district engineer of District 'F,' and Mr. Poulin would return to his former position in District 'D,' Mr. John Aylen, now Mr. Poulin's assistant, to act for him in District 'D' during Mr. Poulin's absence.

Personally, I feel that matters are so different under a government commission, whose powers are limited by the Act, from what they had previously been under a corporation, who could act on their own initiative and take the responsibility of making such modifications in contracts as now suggested by me in just such difficulties as are now being experienced in District 'F,' that unless some relief can be given, the strain and worry connected with my present position is more than I can stand, especially as the salary is not in proportion to the responsibility involved.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

OTTAWA, September 26, 1907.

HUGH D. LUMSDEN,
Chief Engineer.

DEAR SIR,—I beg to advise you that the board has approved your recommendation with respect to the appointment of Mr. S. R. Poulin, at present district engineer of District 'D,' as district engineer for District 'F' in the room and stead of Mr. A. E. Hodgins; and that Mr. Foss be appointed his assistant on the understanding that if Mr. Foss, after a trial of say three months, is found capable of taking charge of the district, that he be appointed to the position of district engineer for District 'F' and that Mr. Poulin return to his present position of district engineer of District 'D,'; and that during Mr. Poulin's incumbency of the position of district engineer for District 'F,' Mr. John Aylen, at present assistant district engineer of District 'D,' be appointed to act as district engineer for District 'D,' has been approved by the board.

With respect to the other recommendations contained in your letter of the 24th instant reporting in regard to the situation in District 'F,' I am to say that you are clothed with the necessary authority under the Transcontinental Railway Act to deal with all matters of classification, the construction of temporary trestles, or the borrow of rock, &c., &c., and are therefore in a position to proceed with respect to these

matters as in your judgment you think best, having in view the completion of the work at the earliest possible date.

The commissioners have not had reported to them any cases of dispute between the contractor and the engineers with respect to the matters referred to in your report.

Yours truly,

P. E. RYAN,
Secretary.

OTTAWA, September 26, 1907.

D. HOCTOR, Esq.,
Chief Accountant.

DEAR SIR,—I beg to advise you that the board has approved the following recommendation of the chief engineer, viz., that S. R. Poulin, District Engineer, District 'D' be appointed as district engineer, District 'F,' in the room and stead of Mr. A. E. Hodgins, and that Mr. C. O. Foss, at present assistant district engineer for District 'A,' be appointed assistant district engineer for District 'F,' on the understanding that if Mr. Foss is found capable of taking charge of the district after a trial of say three months, that he be appointed district engineer of District 'F,' and that Mr. Poulin return to his present position of district engineer for District 'D'; and that Mr. John Aylen, now assistant district engineer of District 'D,' be appointed acting district engineer for District 'D' during Mr. Poulin's absence.

Yours truly,

P. E. RYAN,
Secretary.

OTTAWA, September 26, 1907.

The Commissioners of the Transcontinetal Railway,
Ottawa, Ont

SIRS,—I beg to recommend that Mr. C. O. Foss be appointed acting district engineer, District 'F,' pending the arrival of Mr. Poulin; and would also suggest that the request of Mr. Foss for the appointment of Mr. A. M. MacGillivray as assistant district engineer, District 'F,' replacing Mr. Heaman, be approved Mr. Heaman in the meantime to be appointed acting assistant district engineer, District 'D,' at North Bay.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

OTTAWA, September 26, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—I beg to advise you that the board has approved your recommendation of even date with respect to the appointment of Mr. C. O. Foss as acting district engineer of District 'F'; and also with respect to the appointment of Mr. A. M. MacGillivray, as assistant district engineer, District 'F,' replacing Mr. Heaman; and that Mr. Heaman in the meantime be appointed acting assistant district engineer, District 'D.'

Yours truly,

P. E. RYAN,
Secretary.

APPENDIX No. 5

OTTAWA, September 26th, 1907.

D. HOCTOR, Esq.,
Chief Accountant.

DEAR SIR,—I beg to hand you herewith copy of a letter from our chief engineer with respect to the appointment of Mr. C. O. Foss, as acting district engineer, District 'F'; A. M. MacGillivray as assistant district engineer, District 'F'; and Mr. J. A. Heaman, acting assistant district engineer, District 'D.' These recommendations have been approved by the board.

Yours truly,

P. E. RYAN,
Secretary.

NORTH BAY, ONT. (at Ottawa) September 30, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer, Ottawa.

DEAR SIR,—During my absence from North Bay, while I shall have charge of District 'F,' I beg to apply that an allowance of from $75 to $100 per month, outside of my railway fares, be made to me by the commissioners for my board. My taking charge of this new district will necessarily occasion me that amount of expense which I would not be put to while residing at North Bay.

I hope, therefore, that you will kindly submit this to the commissioners, and oblige,

Yours truly,

S. R. POULIN,
District Engineer 'D.

I would recommend that the sum of $75 per month be paid Mr. Poulin while reorganizing District 'F,' to cover board and extra expenditure.

HUGH D. LUMSDEN,

The same to apply to Mr. Foss for a like period.

HUGH D. LUMSDEN,

OTTAWA, September 30, 1907.

D. HOCTOR, Esq.,
Chief Accountant.

DEAR SIR,—I beg to advise you that the board has approved of the payment of a special allowance of $75 per month to Mr. S. R. Poulin while employed as district engineer of District 'F,' reorganizing the said district, such allowance to cover his board and extra expenditure while absent from his home at North Bay, and that the same allowance be paid to Mr. C. O. Foss while acting as Mr. Poulin's assistant on District 'F.'

Yours truly,

P. E. RYAN,
Secretary.

KENORA, ONT., November 9, 1907.

Hon. S. N. PARENT,
Ottawa.

DEAR SIR,—I was surprised to see in the press your reason for my dismissal, and can only conclude that Mr. Lumsden did not represent to you what the circumstances were, and what action I proposed to take subject to the board's approval.

Did he tell you that the situation was serious, that sub-contractor Dutton (McArthur's largest sub-contractor) threatened to leave the work and throw up his contract, if he did not get some of the promises made to him by Mr. Grant, and unless I did something to guarantee him that he would not lose money; it was no use his wasting his time. He also said Mr. J. D. McArthur had told him the engineers had their orders from the commission. (Engineer Tye confirmed this.)

I told those present that I understood that the chief engineer had received orders the day I left Ottawa to do something to settle all disputes, and get the work done.

The chief arrived, but suggested nothing; approved of the classification the contractors said was too low; offered no advice, but sat and listened to what we all had to say.

I proposed the easiest way to settle cases of disputed material other than rock, was to ascertain the cost, and classify enough loose rock to bring the contractors out even, adding 10 per cent for use of tools, office expenses and profit. The chief said he had no authority to do this, and admitted that something should be done.

I proposed then that I would give the orders, and be responsible until he laid the case before the board. He agreed to this and told me to remember he could give me no authority. I said if he laid the case forcibly before them they would agree to it, because it was a sound business proposition.

Messrs. A. G. MacFarlane, Willet, Hazlewood, Tye, the chief and myself were at Willet's camp at the time. The first two have notes in their diaries of what took place. In justice to me you ought to ask for copies of these notes.

I told the chief I thought it was what the commissioners wanted, if we could believe what Grant had said, and it would put it up to them to say if they backed him up or not, the air was full of rumours.

I told the chief I would act as commissioners Young and Reid had advised: they had told me to take as much responsibility as I could and push the work along and report after, and under all circumstances not to delay the work pending a decision from Ottawa. The chief admitted that it was a good way out of the difficulty, and again said I can give you no authority. I replied, you can get the authority when you return to Ottawa and wire me. He agreed then to cut short his inspection over the district and hurry back to Ottawa in order that I might know what the commissioners decided before the estimates went in. In the meantime it was understood that I was to go ahead unless I heard from him. We figured out that I should have a wire in five days, and it would take about three months to adjust all disputes included on the lines I laid down, the contractors and engineers would not be wrangling over little things, earth was earth and loose rock was indefinite in the specifications on account of the plough test. The bulk of the contract was solid rock and was not to be included. When I told him I would not allow solid rock to be included he was perfectly satisfied.

We went to Winnipeg together, and he had lots of time to change his mind and order me not to do it if he had wished to. Instead of that he reminded me of a somewhat similar case on the Canadian Pacific Railway short line through Maine when he took over the management and Mr. James Ross took the contract ; and I understood him he was going to use this in his argument to the board in favour of my action.

I explained all this to Mr. Young in Winnipeg, who told me that the commissioners could not do what a board of railway directors might, because the latter did not have to submit it to parliament. This was news to me.

If the responsibility I took to keep men on the work, stop wild talk, and settle disputes until such time as the board could have the case laid before them and deli-

berate on it, and took the means of laying the case before the board through the chief engineer, and if in my judgment I thought I was doing the right thing, if this is a serious offence, why did not the chief engineer object on the ground and, as chief engineer, order me not to do it, and if I persisted discharge me ?

All I want is fair-play, and I have had differences of opinion with the board and some of the engineers I have done my best during the three years I have worked for the commissioners.

Yours truly,

A. E. HODGINS.

HUGH D. LUMSDEN, Esq., OTTAWA, November 18, 1907.
Chief Engineer.

DEAR SIR,—Accompanying your letter of August 27 last, to the chairman, is a copy of a letter from you to A. E. Hodgins, dated August 24, and questions put by you to Mr. Grant, and Mr. Grant's answer to same, but there is no record of your having transmitted to the board a copy of Mr. Hodgin's reply to your letter of August 24, although you read Mr. Hodgins' letter of September 4 replying to yours of August 24 to the commissioners.

To complete the file, I am directed to request that you will send me a copy of Major Hodgins' letter of September 4, above referred to.

Yours truly,

P. E. RYAN.

P. E. RYAN, Esq., OTTAWA, November 19, 1907.
Secretary,

DEAR SIR,—As requested in yours of the 18th instant, I beg to hand you herewith a copy of Major Hodgins' letter of September 4 in reply to mine of August 24.

Yours truly,

Enclos. HUGH D. LUMSDEN.

Hon. S. N. PARENT, OTTAWA, November 19, 1907.
Chairman.

DEAR SIR,—In regard to the last clause but one in Major Hodgins' letter to you dated the 9th inst., I may say that Major Hodgins did, as he states, take the responsibility of issuing the instructions to his division engineers, even though I told him I did not and would not approve of them without written authority from the commissioners, and I did not then and there order him not to do so, as he personally knew the feelings of the sub-contractors, or their intentions, better than I did, as mentioned to you in my letter of August 27. I did cut short my trip of inspection and hurried back to Ottawa, and verbally reported to the commissioners on August 19. Major Hodgins doubtless believed that in issuing such instructions he was doing what he thought best as a temporary expedient pending a decision, which was sent him by wire on August 24, and I may say that the issuing of these orders by him was not my reason for suggesting a change of district engineers.

Yours truly,

HUGH D. LUMSDEN.

The Hon. S. N. PARENT, KENORA, ONT., November 20, 1907.
Chairman, T. C. Railway,
Ottawa.

DEAR SIR,—I inclose a copy of notes and a letter received from Mr. A. H. Willet, resident engineer, at whose camp on the Winnipeg river, the discussion of force

account classification took place. I would have sent you the original, but it has gone to Victoria in my luggage.

I have written to Mr. MacFarlane to send you a copy of his diary notes.

Yours truly,

A. E. HODGINS,

Major A. E. Hodgins, C.E.,
Victoria, B.C.

Residency No. 31, October 15, 1907.

Dear Sir,—Your letter of the 9th instant was not received here until yesterday.

Inclosed is a copy of notes made at the time of your two visits last August. I do not think that what you then said could be interpreted as 'wholesale order to classify everything by force account plus ten per cent;' I certainly did not so understand it.

I was in Winnipeg on the 9th instant, and would have called on you had I known you were in the city at the time. I trust, however, to have the pleasure of seeing you in Kenora again toward the end of the month.

Yours truly,

A. H. WILLET.

Residency No. 31.

Major Hodgins' visit here 8th and 9th August, 1907.

After interview with Messrs. Dutton and Tye, Major Hodgins stated that he was inclined to treat the classification of mixed cuts from a business rather than a purely engineering point of view, and instructed me to ascertain cost of such cuts on my residency, and if the ordinary classification showed a loss to the contractor compared with this cost to classify high enough to cover expenses where possible. Care, however, to be exercised in doing this; for instance, not to allow any solid rock in cuts where no such material actually existed. Major Hodgins also said that he did not intend giving such instructions to *all* resident engineers, but only to the older and more experienced men holding that position.

A. H. W.

Residency No. 31.

Mr. Lumsden's and Major Hodgins' visit, 12th and 13th August.

Major Hodgins informed Mr. Lumsden of the instructions given me on his previous visit (see attached details of same). Mr. Lumsden, while admitting that he thought the contractors ought to be assisted, did not seem to consider that 'classification by force account was the proper way to give such assistance. He did not, however, countermand Major Hodgins' instructions to so classify, and when he left here it was distinctly understood that the ensuing estimate was to be based on force account, so far at least, as 'mixed cuts' were concerned.

A. H. W.

Major A. E. Hodgins,
Kenora, Ont.

Ottawa, November 21, 1907.

Dear Sir,—The chief engineer has handed in a reply to your letter, and I am sending you a copy of the same herewith as promised.

Yours very truly,

S. N. PARENT,
Chairman.

SYNOPSIS OF CHARGES

The charges required to be reproduced and made more specific, are as follows :—

1. Major Hodgins, having been appointed district engineer in District 'F,' made his classification under the contract with J. D. McArthur pursuant to the specifications, in accordance with his professional knowledge and experience. That in sending in the progress estimates to his superior officer (the chief engineer), Major Hodgins, though dealing with the utmost fairness with the contractor, found that questions arose as to classification, the contractor desiring a higher classification than the contract allowed, in the judgment of Major Hodgins, and alleging that he was losing money. The contractor appealed to the commissioners, or one of them, who advised Major Hodgins to use greater liberality in classification which Major Hodgins declined to do.

2. The root of all the trouble between the commissioners and Major Hodgins was over-classification; and the commissioners wanted him to change his ideas as to classification, based on a good many years' experience on construction, to the classification that is allowed to the contractors in Quebec (under the head of 'common excavation,' 'loose rock,' and 'solid rock.' This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on the 24th April, 1908, and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24, 1907).

3. The following are instances in District 'F' showing classification similar to that allowed the contractors in Quebec :—

In District 'F,' on Mr. McIntosh's division, Res. 25, in the April, 1907 progress estimate, Sta. 3517, there are 150 yards common excavation and 50 yards loose rock, and in cut 3523/70 there are 200 yards common excavation. These are transferred to solid rock in the progress estimate of July, 1907, though they cannot be made into solid rock under the specifications.

Cut 3972/54. 70 yards common excavation returned in progress estimate of January, 1907, 40 yards loose rock returned in same month. This consists of a little stripping and a little mixed material at the mouth of the cutting. This item is small, but there has been some waste in this cutting. It is put in as solid rock in progress estimate of July, 1907.

Cut 4009/14, July estimate, 1907. There is altogether too much waste in this cutting, even if it were possible to consider 400 yards loose rock as 400 solid rock. The waste in this cutting is certainly deliberate. There is a large amount of overbreak. The bank made up from this cutting is very wide in places, showing carelessness on the part of the sub-contractor or station men.

Sta. 4027/100 yards common excavation in progress estimate of January, 1907, and 1060 yards loose rock, the details of which appear in the progress estimates of January to June, 1907, were transferred to solid rock in progress estimate of July, 1907. This is stripping. From the progress profile it overlies the solid rock.

Sta. 4076/30 yards common excavation in progress estimate Feb'y, 1907, also 730 yards loose rock, and in April progress estimate 100 yards loose rock were transferred to 860 yards solid rock in the July, 1907, progress estimate.

There is a pocket of pure sand in this cut which it is a stretch of imagination to call loose rock. The 30 yards common excavation occurs at the west end of the cutting and was returned in February, 1907, as common excavation.

Sta. 4143/39—50 yards common excavation and 280 yards loose rock, east end in

the progress estimate, February, 1907, and 90 yards common excavation; west end in the progress estimate, January, 1907, transferred to solid rock in the July, 1907 estimate. This is a very bad cutting, and has been classified very liberally in loose and solid rock, the solid rock consisting of boulders. Mr. McIntosh informed Major Hodgins that he classified this to show a profit of $600 on Mr. McArthur's prices to date. It is impossible to estimate the amount of boulders. Beneath the end of this cutting Sta. 4143, has a gravity track and loaded cars run down by themselves, a single horse pulls them up. There are five men shovelling in this cut and two cars. Owing to the length of time it takes the horse to pull the empty cars back to the pit the men were idle most on the time Major Hodgins was there. However, this cutting shows a profit on Mr. McIntosh's classification.

Sta. 4162/82—820 yards loose rock in a previous progress estimate (date not noted), are transferred to solid rock in July, 1907 progress estimate. Here there is more sand than loose rock showing Mr. McIntosh informed Major Hodgins that he increased the solid rock classification in order to bring it to a profit to the contractor at Mr. McArthur's prices.

Sta. 4178/58 : 120 yards common excavation appearing in January, 1907, progress estimate was transferred to solid rock in the July, 1907, progress estimate. The solid rock in this cutting consists of boulders. It is a mixed cutting and over-classified. Mr. McIntosh acknowledges the classification is high, and says he had to do this in order to keep the men at work.

Sta. 4190: 550 yards loose rock transferred in July, 1907, progress estimate to solid rock. This excavation was started in February, 1907, and appears first in February, 1907, progress estimate. There is no reason why it should not still be called loose rock; it certainly is not solid rock.

Sta. 4201/37 : 65 yards common excavation and 900 yards rock appearing in a previous progress estimate, date not noted, transferred to solid rock in July, 1907, progress estimate. Mr. McIntosh informs Major Hodgins that all stripping in this cutting is returned as solid rock, although it should rightly be called loose rock. Fifty per cent of this stripping returned as loose rock and the balance solid would be high classification. In this cutting the stripping is no use in a rock bank and should have been wasted. The portion taken out this summer is about three feet deep.

Sta. 4213/42: 50 yards loose rock in June, 1907, progress estimate transferred to solid rock in July, 1907, progress estimate. It is stripping. The item is very small and is hardly worth considering.

If all the common excavation referred to in the above cuts were returned as loose rock and the loose rock left as previously returned, the contractors would be very liberally dealt with.

Mr. McIntosh ordered in cuttings 4240 and 4250 that 2,700 yards of loose rock in the cut near Sta. 4240 shown in previous progress estimates, date not noted, should be transferred into solid rock in the progress estimate of July, 1907, and this was done; and in cut starting at 4250 the same number of yards was returned in the July, 1907, estimate, as loose rock instead of common excavation, which it surely is, being the finest sand cut that can be found on the line. This should not have occurred.

Mr. McIntosh allowed his resident engineer on Res. 25 to add some 660 yards to the July or August, 1907, progress estimate on cutting 3848 west of Wabigoon river. The resident engineer did this to cover up an extravagant interim estimate given to station men when they were quitting, which interim estimate was not borne out at the end of the month. The men have gone away and unless the same men come back to work this out, this cut will be estimated to contain 660 yards more than has been taken out, to say nothing of the very liberal classification in loose rock, being a clay cutting with the exception of a little lump of solid rock encountered near the mouth.

At Sta. 3400 to 3402, Mile 64, some 900 yards pure muskeg had been returned in progress estimate of July or August, 1907, as solid rock. This muskeg was taken out by station men and the contractor paid them 23 cents a yard. It was wasted to the

side. The reason for returning this as solid rock, claimed both by Mr. McIntosh and the resident engineer, Mr. W. W. Mack, was that it was a pocket in a rock cut. Mr. McIntosh was ordered not to let this sort of thing occur again, and to return it and classify it correctly. The resident engineer estimated that some 1,800 yards of muskeg had been taken out to date, and he would have returned all this as solid rock if Major Hodgins had not stopped him.

As to these instances, Major Hodgins reported them to the chief engineer on September 15, 1907, with a request that it should be dealt with by him.

At Mile 29, stations 1478 to 1483, the engineer in charge of that section turned in in estimate of July or August, 1907, 6,394 cubic yards of earth and 10,189 cubic yards of loose rock. Judged by the specifications there was absolutely no loose rock in sight, and a thousand cubic yards of loose rock would have been an excessive charge.

At stations 1385 and 1398 the engineer turned in in the July or August, 1907, estimate, 15,076 cubic yards of loose rock and 26,668 cubic yards of common excavation. In this case a few hundred yards of loose rock should have been allowed as there were a few boulders, but no more, as it was a pure sand cut.

4. That the Commissioners suggested that Major Hodgins should ignore the chief engineer and act independently in regard to classification.

5. That having refused to be more liberal in classification than Major Hodgins was then allowing, he suggested that the commissioners, not being railroad men, should leave the engineering department alone.

6. That Mr. C. A. Young, a commissioner, then advised that Major Hodgins should go to Quebec and see how things were managed in that District 'B,' where the contractors were not kicking, and get an object lesson.

7. Major Hodgins went to District 'B,' in Quebec, and returned determined not to allow Quebec classification as indicated above to be introduced into the western division so long as he remained in charge. The following is an instance noted by him in District 'B':—

In La Tuque, in District 'B,' there is a large cutting which was originally intended for a tunnel. This had a slope on one side of 120 feet and about 80 feet deep. There was no solid rock in place so that a tunnel was an impossibility. Consequently an open cut was made. It was a very large cutting containing about 150,000 cubic yards of material. The ground was a mixture of loose rock with some boulders and some earth and wet sand on top. There was no solid rock in place visible in June, 1907, so that anything that could be classified as solid rock would consist of large boulders over a cubic yard in dimension. This was classified at 86 per cent solid rock. The cut was originally classified at 30 per cent solid rock. There are numerous other instances of over classification in this section which can be shown when the production asked for is made and witnesses subpœnaed and examined.

8. Having seen an interview with the contractor, J. D. McArthur, in the Toronto 'World' of March 12, 1908, that 'the first estimate as to cost of his 250 miles was $13,000,000, the probable cost would be close on to $16,000,000, so many changes have been made.' Major Hodgins asserted and still maintains that as changes of location and in the standard of classification would both affect the cost of construction and that as the changes of location resulted in a saving of over one million dollars, the additional cost spoken of by McArthur is and must be due to changes in the standard of classification, and that the adoption in District 'F' of a classification similar to that practised in Quebec on District 'B' will account for the same.

9. Major Hodgins gives the instances in paragraph 3 and 7 hereof as showing that such classification exists on District 'B,' and has been introduced in District 'F,' and he asserts and intends, if given access to the papers and documents bearing upon the same, and allowed to subpœna and examine witnesses as aforesaid, to establish that the said classification is general in both districts.

10. 'This led to trouble, and Major Hodgins got no assistance from the chief engineer,' such trouble being as follows :—

The commissioners sent Mr. Gordon Grant, appointed by them notwithstanding the chief engineer's objection to inspect District 'F,' and the said Grant.

(1) In going over District 'F' with the contractors and in their presence and in presence of their engineer and sub-contractor, criticised the classification, stating that it was too low, that the engineers were robbing the contractors, who had not been fairly treated, and suggested classifying common excavation and loose rock as solid rock, and that every yard of stripping should be solid rock, and that would classify the commencement of rock cuttings that contained earth and loose rock from grade until the solid rock was reached as solid rock, and the clay cutting at the Wabigoon as all loose rock, and talked freely of the liberality of the classification in Quebec in which the contractor was given in mixed cuts more rock than there actually was, and which classification the chief engineer had to approve. He also advised that engineers should classify at cost plus 20 per cent in loose rock cuts, and when the price of loose rock did not cover cost the addition of solid rock when solid rock did not exist.

(2) The said Grant raised the classification at La Tuque from 30 per cent to 80 per cent, and after objection from the Grand Trunk Pacific district engineer, Mr. Armstrong, it was raised to 86 per cent, and he so stated to Mr. Hodgins in July, 1907.

(3) The said Grant also made a written report to the chief engineer containing statements as to Major Hodgins and his engineers, many of which are untrue and were intended to create an impression of a state of affairs at District 'F,' which did not exist. The chief engineer then advised the commissioners (see his letter July 31, 1907, produced at page 40) that he did not agree with portions of both reports and could make no intelligent report thereon without going out on the work and judging for himself. The chief engineer then came up to District 'F,' went over five miles of McFarlane's division, agreed that the classification thereon disputed by the contractor was correct and discussed with Major Hodgins the situation in the district, some of the circumstances of which are set out in his letter (a) to the contractor dated June 27, 1907, and (b) to the commissioners, dated August 27, 1907. The copy of the letter to the contractor should be produced. On that occasion Major Hodgins and the chief engineer discussed the situation, and Major Hodgins suggested that he should give an order, subject to the decision of the commissioners, which was to be obtained at once to use force account plus 10 per cent as a quick settlement of classification in dispute, and as a businesslike arrangement designed to prevent the contractor and sub-contractor from throwing up the contract. This suggestion did not obtain the approval of the commissioners, and Major Hodgins was notified within five days; it was not acted upon in classification, and is stated by the Chief engineer in his letter to the commissioners of November 19, 1907, not to be his reason for recommending the change of district engineer.

11. That 'Major Hodgins was removed for other (alleged) reasons, and that no investigation into his case was allowed, and that his opinion and the opinion of the next senior engineer on the district were smothered.' Major Hodgins was dismissed at the instance of the commissioners on Grant's untrue statements of the commissioners' unwarranted and wrong inferences that he was approving of a departure from the specifications at a time when he was investigating, under the orders of the chief engineer, the over-classification which had crept in since Grant's visit, owing to the latter's statements, and when Major Hodgins was actually disallowing such over-classification in two divisions or District 'F.'

12. Major Hodgins adheres to the statements made in a letter of April 16, 1908, as containing his charges which are repeated in a specific manner as above.

13. Major Hodgins requires for the proving of the above charges documentary evidence in the possession of the commission, of the Auditor General, and of the Grand Trunk Pacific Railway Company or its officials. Those in the possesion of the commission consist of the various progress estimates and progress profiles sent in

APPENDIX No. 5

monthly by the engineers in Districts 'F' and 'B,' the reports by the division engineers and by the district engineer, all from January, 1907, to the present time and relating to District 'F' and 'B'; all correspondence relating to these estimates or to the classification thereon and to the matters referred to in these charges; the minutes of the commision and the correspondence between them and any of their engineers or officials relating to the said matters or reports and memoranda relating thereto, and all cheques, warrants and other vouchers showing payments made or recommended upon the above estimates and the certificates upon which the same were paid, and, generally speaking, all paper writings in any way dealing with or affecting the question before the committee.

Those in the possession of the Grand Trunk Pacific Railway Company consist of all letters or reports from their inspecting engineers on Districts 'F' and 'B,' reporting on, objecting to, or approving of the progress estimates or classification made by the engineers of the commission, and all correspondence, or copies thereof, between the Grand Trunk Pacific Railway Company or any of their officials or engineers with the commission, or any of its officials or engineers regarding the said classification or progress estimates.

Major Hodgins further requires the documents anr papers referred to in the above charges and not yet produced, and in addition thereto the following :—

(1) Minutes of conference between the commissioners, the chief engineer and Grant on 23rd August, 1907.

(2) Letters, 6th September, 1907, and letters, 9th September, 1907, from Mr. Mann, Grand Trunk Railway engineer of District 'F,' or copies thereof, protesting against July classification on account of allowing solid and loose rock where they could not be properly so classified under the specifications.

(3) The August estimate from which Major Hodgins struck out items of over-classification.

(4) Cipher telegram in September, 1907, Major Hodgins to chief engineer, asking for a reclassification of Divisions 5 and 6.

(5) Copy of letter, chief engineer to Major Hodgins, 12th September, 1907, asking for his resignation.

(6) Letter, September 3, 1907, Major Hodgins to chief engineer stating that it was necessary for the chief engineer to continue his investigation into Grant's charges to which both engineers Heaman and Mann object and that McArthur says that Grant was sent to help him out.

(7) Letter, Major Hodgins to chief engineer, September 7, 1907, that he has disallowed August estimate, in so far as it differs from that prior to July, &c., that McIntosh objects and that Major Hodgins would go over it, but would not allow solid rock where it did not exist and inclosing two letters from McIntosh giving reasons for change in classification.

(8) The two letters from McIntosh inclosed in that letter.

(9) Letter, Major Hodgins to chief engineer, September 8, 1907, referring to jump in McIntosh estimate from 385 yards, common excavation, in July, immediately following Grant's inspection to 14,005 cubic yards which is not accounted for, and that he is going to see, that 13 cuts where 5,855 yards, common excavation, was transferred to solid rock.

(10) Letter, Major Hodgins to chief engineer, September 15, 1907, as to July estimates of Mr. McIntosh, giving detailed instances of over-classification, and saying that if common excavation and loose rock are to be classified as solid rock he wishes to be relieved of all responsibility and refers matter to the chief engineer to be dealt with. Also the documents, circulars and letters referred to in the letter of the chief engineer, dated 23rd April, 1908, to the commissioners : Letters from Major Hodgins to the chief engineer, dated August 7, 1907, and October 6, 1907. Telegram from chief engineer to Major Hodgins, dated August 17, 1907. Statement of resident engineers dealing with Grant's visit sent in September to the chief engineer. Instructions to

Gordon Grant acknowledged in his report of July 23, 1907, complaints from the Grand Trunk Pacific Railway Company referred to as having been received in Mr. Parent's letter of August 24, 1907, to the chief engineer, and the papers relating to the location original, revised and final of the line in District 'F' and the letting of the contract and the progress of the contractor.

14. Major Hodgins desires to call and examine, and requests the committee to have subpœnaed to attend with all papers, books, documents, reports and correspondence relating to any of the matters referred to in the thirteen preceding sections hereof, the following witnesses:—

A. P. Miller, resident engineer, residency 25.
W. M. Wilkie, resident engineer, residency 22.
E. R. Milledge, resident engineer, residency 29.
G. L. Mattice, resident engineer, residency 27.
H. Sunstrum, resident engineer, residency 28.
M. C. MacFarlane, division engineer, division 8.
W. W. Bell, resident engineer, residency 21.
E. R. Blackwell, resident engineer, residency 33.
George Scott, resident engineer, residency 34.
Mr. Woods, assistant chief engineer, G. T. P. Railway.
W. E. Mann, inspecting engineer, G. T. P., Winnipeg.
John Armstrong, Ottawa.
J. A. Heaman, Kenora.
F. W. Morse, Montreal.

May 11, 1908.

This is filed by Mr. Frank E. Hodgins, K.C., as counsel for Major Hodgins.

REPORTS OF THE COMMITTEE

FIRST REPORT.

FRIDAY, May 15, 1908.

The Special Committee appointed to investigate the charges made by Major Hodgins *re* the Transcontinental Railway beg leave to present the following as their First Report :—

You committee recommend that leave be granted to them to sit while the House is in session.

All which is respectfully submitted.

VICTOR GEOFFRION,
Chairman.

SECOND REPORT.

THURSDAY, May 21st 1908.

The Special Committee appointed to investigate the charges made by Major Hodgins *re* the Transcontinental Railway beg leave to present the following as their Second Report :—

Your committee recommend that leave be granted to them to have all their proceedings and any evidence taken by them in this inquiry, printed from day to day for the use of the committee and that Rule 72 be suspended in reference thereto.

All which is respectfully submitted.

VICTOR GEOFFRION,
Chairman.

THIRD REPORT.

FRIDAY, June 26, 1908.

The Special Committee appointed to investigate the charges made by Major Hodgins *re* Transcontinental Railway beg leave to present the following as their Third Report :—

The Special Committee to whom was referred the memorandum of the Chairman of the Transcontinental Railway Commission to the Prime Minister of date 23rd of April last past, and laid on the Table of the House on the 24th of April and papers accompanying the same, together with the letter of Major Hodgins to the public press therein referred to, beg leave to present the following as their Third and Final Report :—

Your committee met for organization on the 29th day of April last past, when Mr. Geoffrion was elected Chairman, and on motion it was resolved that the Clerk of the committee notify Major Hodgins to appear for the purpose of formulating and substantiating his charges. Your committee met again on the 8th day of May, 1908, at which time Major Hodgins appeared personally, and by Mr. Frank Hodgins, K.C., his counsel, and the investigation of the said charges was commenced and continued with certain adjournments, until the 23rd day of June instant.

The charges consisted of a letter written by Major Hodgins and published in the *Daily Colonist*, a newspaper of the city of Victoria, on the 16th day of April last past; and also two alleged interviews with Major Hodgins in the *Daily Colonist* under date of April 17th and 19th, in which Major Hodgins substantially charged that, on account of differences over the question of classification between himself, as District Engineer of District 'F' of the Transcontinental Railway, and the contractors, he was invited by the Commissioner, C. A. Young, to go to Quebec and see how things were managed in that district where the contractors were not kicking, and to get an 'object lesson,' and that upon going to Quebec he found a certain cut, known as the 'tunnel cut,' near LaTuque, being classified as 86 per cent solid rock, which in his judgment, should not have been classified at more than 40 per cent. Also, that if it were true, as stated in an interview with Mr. J. D. McArthur, the contractor for District 'F,' in the Toronto *World* of the 12th of March, that while Major Hodgins' first estimate as to the cost of the 250 miles was $13,000,000, which, by a revision of the line, was subsequently reduced to something under $12,000,000, the probable outlay would be close to $16,000,000, then the increased cost must have been the result of the introduction into District 'F' of what Major Hodgins chose to call 'Quebec classification.'

After the investigation had proceeded for a time, and on the 3rd day of June, Major Hodgins specifically repudiated the interviews in the *Daily Colonist* above referred to, in the following statements, found on pages 254 and 257 of the Evidence, namely :—

'*By Mr. Murphy :*

'Q. Well, it is important to know, Major, how much or how little of this interview you are prepared to stand by, because it affects the cross-examination ?

'A. I am not prepared to be responsible for the interviews at all. As I say, if a reporter interviews you and takes down half a dozen sentences—and his notes certainly were not that long (illustrating by a gesture) and writes up two columns, you cannot hold me responsible for it. Part of the interview, I might tell you, the reporter was trying to find out what an engineer has to do, what he does this, that, and the other—in fact, I was giving him more or less of a lecture on engineering. There are a whole lot of questions he was working up, and he got hopelessly mixed up in the thing.'

* * * * * * * * *

'Major Hodgins.—I might say that the reporter during the interview asked me a whole lot of things. I have forgotten exactly what questions he asked me, but he said : "Is this so and so." I said : "It is impossible for me to know. You must not put down anything in this interview that I have not said." When I saw the interview I saw that the thing was so hopelessly mixed up there was no possible way of explaining it. I asked him to make a correction, and he made a correction, which is almost as bad as the other. Then I stopped.'

Later on it developed, beyond question, that the cut to which Major Hodgins referred as having been classified at 86 per cent solid rock, was, in the month of May, 1907—being the month prior to Major Hodgins' visit—classified at 29 per cent solid rock, 10 per cent loose rock, and 61 per cent common excavation, and for the month of June, 1907, 32 per cent solid rock, 10 per cent loose rock, and 58 per cent common excavation.

The Major then found that a large amount of discussion and correspondence had taken place between the Chief Engineer of the Commission, the various District Engineers from Moncton to Winnipeg, as well as Divisional and Resident Engineers, and very eminent legal gentlemen, over the proper interpretation of clauses 34, 35 and 36 of the specifications, being the clauses applying to the classification of solid rock, loose rock, and common excavation, and that on the 9th day of January, 1908, an interpretation was decided upon by the Chief Engineer, which afterwards was

agreed to by Mr. Woods, Assistant Chief Engineer of the Grand Trunk Pacific Railway Company, and which has been acted upon since that date, but which the Major contended was at variance with his ideas of the proper construction of these clauses, and when this fact came to his notice, together with the fact of mistake in regard to the classification of the LaTuque cutting, upon which he had based his judgment of the work in Quebec, he frankly admitted that the only question then left was whether his view of the interpretation of the specifications was correct or not, and he thereupon withdrew any imputations which he had made upon the Commissioners in regard to improper interference with the engineers, or that he had personally asked Sir Wilfrid Laurier for an investigation which had been refused, or that Mr. Parent had in any way attempted to influence Sir Wilfrid Laurier, and that not knowing of Mr. Lumsden's interpretation of the clauses referred to when he wrote his letter to the *Colonist* on April 16th, his views, in the light of this opinion had been modified; these admissions being found on pages 385, 386, 387, and 388 of the evidence.

It also appeared from the documents produced that in making his estimate of the cost of the two hundred and fifty miles in District 'F,' comprised in McArthur's contract, Major Hodgins had omitted from his calculation a number of items, which in the aggregate amount to about $6,000,000, which more than accounts for Mr. McArthur's estimated increase of $4,000,000 in the cost of the work, and about coincided with Mr. Poulin's estimate made shortly after assuming the duties of District Engineer, and it therefore became evident that this increased cost was not the result of a change in classification, but of including work necessary to the completion of the enterprise.

Your committee, therefore, decided that as the charges made by Major Hodgins had been withdrawn, the question as to whether the engineers on Districts 'B' and 'F' were classifying according to the interpretation of the specifications as laid down by the chief engineer was a technical one which Major Hodgins did not wish to present to the committee claiming on page 387 of the evidence that the board of arbitration was the proper tribunal to determine whether or not there was an issue in this matter, and inasmuch as differences of opinion had been anticipated at the inception of the enterprise, and their disposition provided for by the statute and agreement which provided for the settlement of such differences by the arbitration and decision of the chief engineer of the Grand Trunk Pacific Railway Company, and the chief engineer of the commission, and in case of their disagreement, by a third engineer to be appointed by the Chief Justice of Canada, the inquiry could not profitably or in the public interest be continued, and the same was brought to a close.

Your committee, therefore, find that Major Hodgins has not only failed to prove the charges as contained in the *Colonist*, both in the letter and interviews, but has specifically withdrawn the same, and has unqualifiedly exonerated the commissioners and their engineers from any improper conduct or undue influence over officials under them, or of collusion with the contractors, and that if questions as to classification arise they should be decided by the tribunal previously provided therefor by the statute.

Your committee also beg to submit herewith, for the information of the House, the minutes of their proceedings, their discussions and the evidence taken by them during the inquiry.

All which is respectfully submitted.

VICTOR GEOFFRION,
Chairman.

MINUTES OF PROCEEDINGS

OF THE

SPECIAL COMMITTEE INVESTIGATING

Major Hodgins Charges.

WEDNESDAY, April 29, 1908.

The Special Committee appointed to investigate the charges made by Major Hodgins, C.E., regarding the classification of materials, &c., in construction work on the Transcontinental Railway, met at 10.30 o'clock, a.m.

On motion of Mr. Carvell, Mr. Geoffrion was elected chairman of the committee.

The order of reference was read.

On motion of Mr. Carvell, it was resolved that the clerk of the committee do notify Major Hodgins by telegram to appear before the committee on Friday, May 8 next, for the purpose of preferring his charges, and to bring with him all papers, correspondence and memoranda in his possession relative to the matters mentioned in the order of reference.

On motion of Mr. Macdonald, it was ordered that the clerk do notify the Board of Commissioners of the Transcontinental Railway that the committee will meet on Friday, May 8 next, for the purpose of beginning the investigation, and ask them to submit any papers or information which they desire to lay before the committee for their consideration; and also to produce for the information of the committee all papers and correspondence (if any) relevant to the subject of inquiry, which may be in their possession or under their control, and which have not already been laid before the House; also all maps, plans, profiles, progress and other estimates, specifications, memoranda or other information regarding the classification of materials in cuttings and fillings and any alterations made therein, and also regarding any changes made in the location of the line within Districts 'B' and 'F,' of the railway, subsequent to the final location thereof.

The committee adjourned till Friday, May 8, at eleven o'clock, a.m.

Attest.

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

FRIDAY, May 8, 1908.

The Committee met at 11 o'clock, a.m.

Present: Messrs. Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald,

The minutes of the last meeting being read, Mr. Macdonald took exception to the last half of the resolution standing in his name, as he had only proposed that the Transcontinental commissioners should produce papers subject to the terms of the Order of Reference, and not to any charge that might be made by Major Hodgins.

Subject to the objection of Mr. Macdonald the minutes were confirmed.

Replying to a member of the committee, the clerk stated that no papers had been produced as yet.

Major A. E. Hodgins being called, was present.

Major Hodgins being asked by the Chairman if he had any statement to make before being examined.

Mr. Frank Hodgins, K.C., stated that he was present as representing Major Hodgins *pro tem,* but as his client had only arrived from British Columbia yesterday, he had not had sufficient time to go into the subject matter of the enquiry with him with any particularity, but if allowed a reasonable time for consultation and preparation he would be able to submit a statement of the charges, probably by Monday or Tuesday next

Resolved,—That Major Hodgins be given until Monday next at 6 o'clock, p.m., to file, through his counsel, a statement of his charges, with the clerk of the committee.

Mr. Hodgins, K.C., asked that counsel be assigned to Major Hodgins, at public expense. Consideration postponed until the next meeting of the committee.

The committee adjourned until Tuesday next at 10.30 o'clock a.m.

Attest.

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

TUESDAY, May 12, 1907.

The committee met at 10.30 a.m.

Present: Messrs. Geoffrion, chairman; Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

Mr. Hodgins, K.C., handed in a typewritten statement of the charges preferred by Major Hodgins.

Mr. Barker moved that the said charges be now read.

Mr. Macdonald moved in amendment that in view of the misunderstanding which arose as to to-day's meeting, the committee do now adjourn until to-morrow, and that the whole matter stand over until that time.

And the question being put the amendment was declared carried on division.

The committee adjourned until to-morrow at 10.30 o'clock a.m.

Attest.

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

WEDNESDAY, May 13, 1908.

The committee met at 10.30 o'clock, a.m.

Present: Messrs. Geoffrion (chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

Mr. Charles Murphy stated that he was present as representing the Transcontinental Railway Commissioners.

Mr. Murphy being asked by the chairman if he had any observations or objections to make regarding the charges as filed by Mr. Hodgins, K.C., stated that he did not intend to make any formal objection at this stage of the proceedings, but reserved the right to object to any point at the proper stage in the taking of the evidence.

APPENDIX No. 5

Mr. Hodgins, K.C., renewed his application for assignment of counsel to Major Hodgins. Consideration further postponed.

On motion of Mr. Barker, it was resolved that the Transcontinental Railway Commissioners be required to produce before this committee all papers and records in the custody or under the control of the said commissioners relating to, or affecting the matters referred to this committee.

On motion of Mr. Barker, it was resolved that the First Minister, the Minister of Finance, the Minister of Railways and Canals, and any other ministers or departments, including the Auditor General, having papers and records in their custody or under their control, relating to, or affecting the matters referred to this committee be requested to produce the same before the committee.

Mr. Barker moved that a summons be issued to the proper officers of the Grand Trunk Pacific Railway Company requiring the company to produce before this committee, all papers and records in the custody or under the control of the company or of its officers, relating to or affecting the subject-matter referred to this committee, and requiring the officers or persons in charge of any or all such papers and records to appear therewith before this committee and give evidence in regard thereto.

Motion to stand for further consideration.

Mr. Lennox moved that the Transcontinental Railway Commissioners and the government be requested to produce and have before this committee at its next sitting such of the memoranda, papers, writings and documents mentioned or referred to in the statement of charges filed on behalf of Major Hodgins as are in their possession, custody or control.

Motion to stand as a notice of motion.

Major A. E. Hodgins, C.E., was sworn and examined in part by Mr. F. E. Hodgins, K.C.

Major Hodgins produced the following papers which were filed and marked as exhibits, viz.:—

No. 1.—Memo of number of men employed monthly on McArthur's contract from May, 1906, to September, 1907.

No. 2.—Copy of circular letter, of June 27, 1907, H. D. Lumsden to district engineers.

No. 2*a*.—Copy of letter of same date, H. D. Lumsden to Gordon Grant.

No. 2*b*.—Copy of letter of same date, H. D. Lumsden to J. D. McArthur, Winnipeg.

No. 3.—Letter from Commissioner Young to Major Hodgins, Kenora, Ont., dated June 4, 1906.

On motion of Mr. Lennox, it was ordered that a summons, *duces tecum* be issued to Mr. John Armstrong, C.E., to attend and give evidence before the committee at its next sitting.

Resolved that the committee do recommend to the House that leave be granted to them to sit while the House is in session.

The committee adjourned till Tuesday next, May 19, at 4 o'clock, p.m.

Attest.

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

TUESDAY, May 19, 1908.

The committee met at 4 o'clock p.m.

Present:—Messrs. Geoffrion (chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

On motion of Mr. Barker, it was

Ordered, That Mr. J. A. Heaman, C.E., of Kenora, Ont.; Mr. W. Mann, of Winnipeg, and Mr. Woods, Assistant Chief Engineer, Grand Trunk Pacific Railway Company, Montreal, be summoned to attend *duces tecum,* and give evidence before the committee.

Resolved, That any original documents in the possession or under the control of the Transcontinental Railway Commissioners, required for the use of the committee, be brought as required to this committee room, under the care of an officer of the Commission, for inspection by members of the committee and by counsel.

The examination of Major Hodgins by his counsel was resumed.

During his examination the following papers were produced and marked as exhibits, viz.:—

No. 4.—Letter, May 9, 1907, Hodgins to Lumsden.

No. 5.—Letter, June 6, 1907, Hodgins to Lumsden, enclosing list of heavy cuttings.

The committee rose at 6 o'clock p.m.

8.30 p.m.

The committee resumed.

The examination of Major Hodgins was continued.

The following papers were filed and marked as exhibits, viz.:—

No. 6.—Letter, September 14, 1907, Hodgins to Lumsden.

No. 7.—Letter, July 25, 1907, McIntosh to Hodgins.

No. 8.—Statement showing material previously returned as common excavation now transferred to solid rock.

No. 9.—Letter, August 6, 1907, Hodgins to Lumsden.

No. 10.—Notes showing sudden jump in solid rock, &c., after Grant's trip of inspection.

No. 11.—Letter, September 7, 1907, Hodgins to Lumsden.

No. 12.—Letter, September 9, 1907, Hodgins to Lumsden.

No. 13.—September 12, 1907, Lumsden to Hodgins.

No. 14.—Cipher telegram, September 22, 1907, Hodgins to Lumsden.

No. 15.—Letter, September 6, 1907, W. E. Mann to Hodgins.

No. 16.—Letter, September 9, 1907, W. E. Mann to Hodgins.

The committee adjourned at 10.30 p.m. till to-morrow at 11 o'clock a.m.

Attest,
WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

WEDNESDAY, May 20, 1908.

The committee met at 11 o'clock, a.m.

Present: Messrs. Geoffrion (chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were confirmed.

The examination of Major Hodgins by his counsel was continued.

The following papers were filed and marked as exhibits:—

No. 17.—Letter September 3, 1907, Hodgins to Lumsden.

No. 18.—Letter, August 9, 1907, McArthur to Hodgins.

No. 19.—Letter, August 24, 1907, Parent to Lumsden.

No. 20.—Letter, August 27, 1907, Lumsden to Parent.

No. 21.—Letter, November 19, 1907, Lumsden to Parent.

APPENDIX No. 5

No. 22.—Letter, September 4, 1907, Hodgins to Lumsden.
No. 23.—Newspaper clipping, November 5, 1907.
No. 24.—Letter, November 9, 1907, Hodgins to Parent.
No. 25.—Letter, September 11, 1907, Young to Hodgins.
No. 26.—Letter, September 16, 1907, Hodgins to Young.
No. 27.—Letter, July 31, 1907, Lumsden to Commissioners, inclosing Grant's report.

The committee rose at 1 p.m.

3 o'clock, p.m.

The committee resumed.

Examination of Major Hodgins continued.

The following papers were filed and marked as exhibits, viz.:—

No. 28.—Gordon Grant's report.
No. 29.—Hodgins' reply thereto.

Mr. Hodgins, K.C., stated that he had substantially concluded the examination in chief of the witness.

The cross-examination of Major Hodgins by Mr. Murphy was commenced.

The following papers were filed as exhibits:—

No. 30.—Notes procured from Heaman at Kenora.
No. 31.—Book of General Instructions to Engineers.

On motion of Mr. Lennox, it was resolved that the committee do recommend that leave be granted to have all proceedings of the committee from day to day, including motions, discussions, rulings and evidence, printed from time to time, as rapidly as practicable.

The committee adjourned till to-morrow at 11 o'clock, a.m.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

THURSDAY, May 21, 1908.

The Committee met at 11 o'clock a.m.

Present:—Messrs. Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald.

The Minutes of the last meeting were read and confirmed.

The cross-examination of Major Hodgins by Mr. Murphy was continued.

Mr. Murphy having asked the witness to produce any correspondence between himself and Mr. Heaman, and the witness having stated that he had destroyed it, Mr. Murphy asked him to state the contents of the letters so far as they related to the subject matter of the inquiry, and objection having been taken on the ground that they contained an expression of Mr. Heaman's opinion regarding other engineers, the Chairman ruled that as the letters might have been produced, if they had not been destroyed, it was quite regular for Counsel to require the witness to give the information contained in the letters, so far as it had reference to the subject of inquiry.

At one o'clock the committee rose.

4 o'clock p.m.

The committee resumed.

The cross-examination of Major Hodgins by Mr .Murphy was continued.

At 6 o'clock p.m., the committee adjourned till Wednesday, June 3rd, at 11 o'clock a.m.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

WEDNESDAY, June 3, 1908.

The committee met at 11 o'clock, a.m.

PRESENT—Messrs. Geoffrion (Chairman), Barker, Carvell and Macdonald.

The minutes of the last meeting were read and approved.

The cross-examination of Major Hodgins by Mr. Murphy was resumed.

The following letters were filed and marked as exhibits:—

No. 32—Letter, Major Hodgins to C. A. Young, dated May 1 (properly June 1).

No. 33—Letter, Major Hodgins to C. A. Young, dated June 6, 1907.

During the cross-examination of Major Hodgins, Mr. Murphy read an editorial from the Victoria *Colonist*, dated May 26, 1908, stating that he did not intend it to go in as evidence, but subsequently proceeded to question the witness upon its contents. Mr. Hodgins, K.C., objected, as the article had not been put in; the chairman said: 'I think the editorial must form part of the record, and be taken into the evidence when it has been read,' whereupon Mr. Hodgins again objected to the editorial going in as evidence under the circumstances.

At 1 o'clock the committee rose.

3 o'clock, p.m.

The committee resumed.

The cross-examination of Major Hodgins by Mr. Murphy was continued.

The committee adjourned at four o'clock till to-morrow afternoon at four o'clock.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

THURSDAY, June 4, 1908.

The committee met at 4 o'clock p.m.

Present:—Messrs. Geoffrion (Chairman), Barker, Carvell and Macdonald.

The minutes of the last meeting were read and confirmed.

The cross-examination of Major Hodgins by Mr. Murphy was continued.

The following paper was filed as an exhibit:—

No. 34—Letter, Lumsden to Hodgins, dated August 24, 1907.

The committee adjourned till Monday, June 15, at 3 o'clock p.m.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

APPENDIX No. 5

MONDAY, June 15, 1908.

The committee met at 3 o'clock p.m.

Present:—Messrs. Geoffrion (Chairman), Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

The cross-examination of Major Hodgins by Mr. Murphy was resumed.

Mr. Murphy stated that he had inquired of the premier as to the production of the telegram received by him from Mr. Conmee, M.P., regarding Major Hodgins, and he had informed him that he was willing to produce it, provided that Mr. Conmee consented, as the telegram was marked 'private.' Mr. Conmee, however, objected to the production of the telegram under the circumstances.

After some discussion it was

Resolved, That the chairman see Mr. Conmee with a view to obtaining his consent to the production of the said telegram.

Mr. Murphy asked the witness to produce the correspondence between himself and Mr. Butler, Deputy Minister of Railways, which was marked 'private and confidential,' and said that Mr. Butler had stated to him that he was willing to produce it if Major Hodgins consented, and objection being taken on the ground that Mr. Butler could be called for the purpose, and Mr. Murphy having stated that Mr. Butler was confined to bed through illness, it was decided that Mr. Murphy obtain Mr. Butler's consent in writing.

During the cross-examination of the witness, Mr. Murphy produced a copy of a profile of line from mile 118 to mile 122, in District 'B,' and objection being taken on the ground that it was not identified,

Mr. E. A. DOUCET, District Engineer of District 'B,' was sworn, and identified the profile as a true copy of the original. It was then filed and marked as Exhibit No. 35. Counsel for Major Hodgins having objected to the production of a copy instead of the original profile, it was

Ordered, That the original of the said profile be produced at the next sitting.

The witness Doucet produced four photographs (A, B, C and D) of D. K. McDonald's cut at La Tuque, P.Q.

At 6 o'clock the committee rose.

8.30 p.m.

The committee resumed.

Mr. Murphy read a letter received from Mr. Butler giving his consent to the production of correspondence with Major Hodgins, provided the latter gave his consent.

The cross-examination of Major Hodgins was continued by Mr. Murphy.

At 10.15 p.m. the committee adjourned till tomorrow at 3 o'clock p.m.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

TUESDAY, June 16, 1908.

The committee met at 3 o'clock p.m.

Present:—Messrs. Geoffrion (Chairman), Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

The Chairman stated that he had seen Mr. Conmee, M.P., regarding the production of the telegram referred to at yesterday's meeting, but that Mr. Conmee was not as yet prepared to give his consent to its production.

The cross-examination of Major Hodgins by Mr. Murphy was resumed.

The following papers were filed as exhibits:—

No. 36—Letter, Major Hodgins to Mr. M. J. Butler, C.E., dated August 18, 1907.

No. 37—Letter of Mr. Butler to Major Hodgins, dated August 24, 1907.

No. 38—File containing various letters and legal opinions regarding Chief Engineer Lumsden's interpretation of specifications.

The committee rose at 5.15 p.m.

8.30 p.m.

The committee resumed.

Present:—Messrs. Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald.

Mr. Murphy stated that in view of the statements made by Major Hodgins at the close of the afternoon sitting he proposed to suspend his further cross-examination for the present.

Mr. Hodgins, K.C., asked to be permitted, in the event of the cross-examination of Major Hodgins not being further proceeded with, to re-examine him if necessary upon certain points of personal interest to the witness, which was agreed to.

The committee adjourned till to-morrow at 10.30 o'clock a.m.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

WEDNESDAY, June 17, 1908.

The committee met at 10.30 a.m.

PRESENT.—Messrs. Geoffrion (chairman) Barker, Carvell, Lennox and Macdonald.

The minutes of last meeting were read and confirmed.

Mr. HODGINS, K. C., stated that he did not desire to re-examine Major Hodgins, and with his permission he accordingly retired from the case.

The committee adjourned till to-morrow at 3 o'clock p.m.

Attest.

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

THURSDAY, June 18, 1908.

The committee met at 3 o'clock p.m.

Present.—Messrs. Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and approved.

The question of further procedure was discussed.

Mr. Murphy requested leave, if the case were to be closed at this stage, to examine certain persons regarding statements made concerning them in the evidence, provided that no new matter was introduced, which was not agreed to.

Mr. A. E. Doucet, district engineer on 'B' was recalled and produced the following exhibits:

No. 39. List of work done at each cut from station 5760 to station 6806 and percentages of solid and loose rock.

No. 40. Percentage of work done at cut station 6030-6046 from September, 1906, to April 30, 1908. O'Brien, Martin & Co., subs.

APPENDIX No. 5

Mr. S. R. Poulin, district engineer 'F', being sworn produced the following papers which were marked as exhibits:—

No. 41. Original estimate of the cost of District 'F' made by Major Hodgins.

No. 42. Estimate of cost of District 'F' made by resident and division engineers after Major Hodgins left.

No. 43. Revised estimate of Major Hodgins as to cost of District 'F'.

Major Hodgins being recalled produced exhibit

No. 44. Ledger containing figures shewing his original estimate of the cost of District 'F'.

Major Hodgins renewed his application for the payment of his counsel fees; consideration postponed till the next meeting of the committee.

Mr. Carvell moved that the taking of evidence be now closed and that the witnesses be discharged, and the question being put, the committee divided as follows:—

Yeas.—Messrs. Carvell and Macdonald.—2. Nays.—Messrs. Barker and Lennox.—2.

The chairman, Mr. Geoffrion, voted yea, and declared the motion carried.

On motion of Mr. Carvell.

The committee adjourned at 6.20 o'clock p.m., until Tuesday next at 8 o'clock p.m.

Attest,

WALTER TODD, *Clerk.*

VICTOR GEOFFRION, *Chairman.*

TUESDAY, June 23, 1908.

The committee met at 8 o'clock p.m.

Present.—Messrs Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

A letter was read from Major Hodgins asking to have certain corrections made to the evidence which he had given under cross-examination and which he would have made before the committee had he been re-examined.

Resolved, That as Major Hodgins had opportunity to make any corrections before the committee prior to his leaving, and did not do so, and as he was asked, before being discharged, if he had any statement to make, and answered in the negative, the committee are of the opinion that the corrections asked for in the letter ought not to be entered on the minutes.

The application of Major Hodgins to have his counsel fees paid by the House was considered, after some discussion it was

Resolved, That in the opinion of the committee it is desirable that the government should pay proper and reasonable fees to the counsel representing the Transcontinental Railway Commissioners, and to the counsel representing Major Hodgins, before the committee in this case.

On motion of Mr. Macdonald, it was

Ordered, That the following persons brought to Ottawa for the purpose of giving evidence in this case, but not called by reason of the taking of evidence not being proceeded with, be paid the usual allowance made to witnesses before parliamentary committees, viz.:—Messrs. C. Le B. Miles, C.E., Woodstock, N.B.; A. P. Miller, C.E., Residency 25; E. R. Milledge, C.E., of Residency 29; G. L. Mattice, C.E., of Residency 27; H. Sunstrum, C.E., of Residency 28; M. C. McFarlane, C.E., Engineer Division No. 8; W. W. Bell, C.E., Residency 21; E. R. Blackwell, C.E., Residency 33; and George Scott, C.E., Residency 34.

The question of further procedure was discussed, at 9.30 p.m., the committee adjourned till Thursday next, at 3 o'clock p.m.

Attest,

WALTER TODD, *Clerk.*

VICTOR GEOFFRION, *Chairman.*

THURSDAY, June 25, 1908.

The Committee met at 3 o'clock, p.m.

Present:—Messrs. Geoffrion (Chairman), Barker, Carvell, Lennox and Macdonald.

The minutes of the last meeting were read and confirmed.

On motion of Mr. Lennox, seconded by Mr. Carvell, it was

Resolved, That this committee desire to place on record its appreciation of the exceedingly efficient and satisfactory way in which the official stenographers, Messrs. Dickson and Matthews, have recorded the evidence taken by the committee, and also the discussions and arguments in committee.

Mr. Carvell moved that the following Draft Report, marked 'A,' be adopted as the report of the committee:

DRAFT REPORT 'A.'

REPORT OF SPECIAL COMMITTEE APPOINTED TO INVESTIGATE CHARGES PREFERRED BY MAJOR A. E. HODGINS AGAINST THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.

The Special Committee, to whom was referred the memorandum of the chairman of the Transcontinental Railway Commission to the Prime Minister, of date 23rd of April last past, and laid on the Table of the House on the 24th of April, and papers accompanying same, together with the letter of Major Hodgins' to the public press therein referred to, beg leave to report as follows:—

Your committee met for organization on the 29th day of April last past, when Mr. Geoffrion was elected chairman, and, on motion, it was resolved that the clerk of the committee notify Major Hodgins to appear for the purpose of formulating and substantiating his charges. Your committee met again on the 8th day of May, 1908, at which time Major Hodgins appeared personally, and by Mr. Frank Hodgins, K.C., his counsel, and the investigation of the said charges was commenced and continued, with certain adjournments, until the 23rd day of June instant.

The charges consisted of a letter written by Major Hodgins and published in the *Daily Colonist,* a newspaper of the city of Victoria, on the 16th day of April last past; and also two alleged interviews with Major Hodgins in the *Daily Colonist,* under date of April 17th and 19th, in which Major Hodgins substantially charged that, on account of differences over the question of classification between himself, as district engineer of District 'F' of the Transcontinental Railway, and the contractors, he was invited by Commissioner C. A. Young to go to Quebec and see how things were managed in that district, where the contractors were not kicking, and to get an 'object lesson'; and that upon going to Quebec he found a certain cut, known as the 'tunnel cut,' near La Tuque, being classified at 86 per cent solid rock, which, in his judgment, should not have been classified at more than 40 per cent. Also, that if it were true, as stated in an interview with Mr. J. D. McArthur, the contractor for District 'F,' in the Toronto *World* of the 12th of March, that while Major Hodgins' first estimate as to the cost of the 250 miles was $13,000,000, which, by a revision of the line, was subsequently reduced to something under $12,000,000, the probable outlay would be close to $16,000,000, then the increased cost must have been the result of the introduction into District 'F' of what Major Hodgins chose to call 'Quebec classification.'

After the investigation had proceeded for a time, and on the 3rd day of June, Major Hodgins specifically repudiated the interviews in the *Daily Colonist* above referred to, in the following statements, found on pages 254 and 257 of the evidence, viz.:—

'*By Mr. Murphy:*

'Q. Well, it is important to know, Major, how much or how little of this interview you are prepared to stand by, because it affects the cross-examination?

'A. I am not prepared to be responsible for the interviews at all. As I say, if a reporter interviews you and takes down half a dozen sentences—and his notes certainly were not that long (illustrating by a gesture) and writes up two columns, you cannot hold me responsible for it. Part of the interview, I might tell you, the reporter was trying to find out what an engineer has to do, what he does this, that, and the other—in fact, I was giving him more or less of a lecture on engineering. There were a whole lot of questions he was working up, and he got hopelessly mixed up in the thing.'

* * * * * * *

Major HODGINS.—I might say that the reporter during the interview asked me a whole lot of things, I have forgotten exactly what questions he asked me, but he said: "Is this so and that so." I said: "It is impossible for me to know. You must not put down anything in this interview that I have not said." When I saw the interview I saw that the thing was so hopelessly mixed up there was no possible way of explaining it. I asked him to make a correction and he made a correction which is almost as bad as the other. Then I stopped.'

Later on it developed, beyond question, that the cut to which Major Hodgins referred as having been classified at 86 per cent solid rock, was, in the month of May, 1907—being the month prior to Major Hodgins' visit—classified at 29 per cent solid rock, 10 per cent loose rock, and 61 per cent common excavation, and for the month of June, 1907, 32 per cent solid rock, 10 per cent loose rock, and 58 per cent common excavation.

The major then found that a large amount of discussion and correspondence had taken place between the chief engineer of the commission, the various district engineers from Moncton to Winnipeg, as well as divisional and resident engineers, and very eminent legal gentlemen, over the proper interpretation of clauses 34, 35 and 36 of the specifications, being the clauses applying to the classification of solid rock, loose rock, and common excavation, and that on the 9th day of January, 1908, an interpretation was decided upon by the chief engineer, which afterwards was agreed to by Mr. Woods, assistant chief engineer of the Grand Trunk Pacific Railway Company, and which has been acted upon since that date, but which the major contended was at variance with his ideas of the proper construction of these clauses, and when this fact came to his notice, together with the fact of his mistake in regard to the classification of the La Tuque cutting upon which he had based his judgment of the work in Quebec, he frankly admitted that the only question then left was whether his view of the interpretation of the specifications was correct or not, and he thereupon withdrew any imputations which he had made upon the commissioners in regard to improper interference with the engineers, or that he had personally asked Sir Wilfrid Laurier for an investigation which had been refused, or that Mr. Parent had in any way attempted to influence Sir Wilfrid Laurier, and that not knowing of Mr. Lumsden's interpretation of the clauses referred to when he wrote his letter to the *Colonist* on April 16th, his views, in the light of this opinion had been modified; these admissions being found on pages 385, 386, 387 and 388 of the evidence.

It also appeared from the documents produced that in making his estimate of the cost of the two hundred and fifty miles in District 'F' comprised in McArthur's contract, Major Hodgins had omitted from his calculation a number of items, which in the aggregate amount to about $6,000,000, which more than accounts for Mr. McArthur's estimated increase of $4,000,000 in the cost of the work, and about coincided with Mr. Poulin's estimate made shortly after assuming the duties of district engineer, and it therefore became evident that this increased cost was not the result of a change in classification, but of including work necessary to the completion of the enterprise.

Your committee, therefore, decided that as the charges made by Major Hodgins had been withdrawn, the question as to whether the engineers on Districts 'B' and 'F' were classifying according to the interpretation of the specifications as laid down by the chief engineer was a technical one which Major Hodgins did not wish to present to the committee claiming on page 387 of the evidence that the board of arbitration was the proper tribunal to determine whether or not there was an issue in this matter, and inasmuch as differences of opinion had been anticipated at the inception of the enterprise, and their disposition provided for by the statute and agreement which provided for the settlement of such differences by the arbitration and decision of the chief engineer of the Grand Trunk Pacific Railway Company, and the chief engineer of the commission, and in case of their disagreement, by a third engineer to be appointed by the Chief Justice of Canada, the inquiry could not profitably or in the public interest be continued, and the same was brought to a close.

Your committee, therefore, find that Major Hodgins has not only failed to prove the charges as contained in the *Colonist*, both in the letter and interviews, but has specifically withdrawn the same, and has unqualifiedly exonerated the commissioners and their engineers from any improper conduct or undue influence over officials under them, or of collusion with the contractors, and that if questions as to classification arise they should be decided by the tribunal previously provided therefor by the statute.

Your committee also beg to submit herewith, for the information of the House, the minutes of their proceedings, their discussions and the evidence taken by them during the inquiry.

Mr. Barker moved in amendment, that the following Draft Report, marked 'B,' be adopted as the report of the committee in lieu of the foregoing:—

DRAFT REPORT 'B.'

REPORT OF THE SPECIAL COMMITTEE APPOINTED TO INVESTIGATE MAJOR HODGINS' CHARGES.

The special committee to whom was referred the memorandum of the chairman of the Transcontinental Railway Commission of date 23rd April, 1908, and laid on the Table of the House on the 24th day of April, 1908, and the papers accompanying the same, together with the letter of Major Hodgins to the public press therein referred to, with instructions to your committee to investigate the matters and charges therein mentioned, and with power to send for persons, papers and records, and to examine persons on oath or affirmation and to report from time to time, beg leave to report as follows:—

Your committee met for organization on the 29th day of April, 1908, when Mr. Geoffrion was appointed chairman; it was resolved that Major Hodgins be notified to appear before the committee on the 8th May, 1908, for the purpose of preferring his charges and to bring with him all papers, correspondence and memoranda in his possession relative to the matters mentioned in the order or reference; and that the Board of Commissioners of the Transcontinental Railway be notified that the committee would meet on the said 8th day of May for the purpose of beginning the investigation; and that the said commissioners be requested to submit any papers or information which they desired to lay before the committee for their consideration; and that the said commissioners be notified to produce for the information of the committee all papers and correspondence (if any) relevant to the subject of inquiry, which may be in their possession or under their control, and which have not already

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been laid before the House, also all maps, plans, profile, progress and other estimates, specifications, memoranda or other information regarding the classification of materials in cuttings and fillings and any alterations made therein, and also regarding any changes made in the location of the line within Districts 'B' and 'F' of the railway subsequent to the final location thereof.

Your committee met on the 12th day of May, 1908, and on that day there was submitted to them in writing a statement of such of the charges made by Major Hodgins as he proposed to substantiate, reproduced and made by him more specific at the request of the committee.

On the 13th day of May, 1908, your committee resolved:—

'That the Transcontinental Railway Commissioners be required to produce to this committee all papers and records in the custody or control of the said commissioners relating to or affecting the matters referred to this committee.

'That the First Minister, the Minister of Railways and Canals and the Minister of Finance and any other ministers of departments, including the Auditor General, having papers or records in their custody or control relating to, or affecting the matters referred to this committee be requested to produce the same before this committee.'

Thereupon the taking of evidence was proceeded with, and was continued from time to time until the 18th day of June, 1908, and papers, records and documents relating to and affecting the subject matters under investigation were produced and submitted to the consideration of the committee; which proceedings, evidence, papers, records and documents are set forth in the printed minutes and proceedings of the committee up to and inclusive of the said 18th day of June herewith reported and submitted.

As shown by the papers and documents produced by the said commissioners to your committee and set forth in the printed minutes of the proceedings of your committee now reported, many charges of over-classification, of excessive allowances, and undue payments by the said commissioners to the contractors, of a like description to those charged by Major Hodgins, have formally been made by and on behalf of the Grand Trunk Pacific Railway Company, which charges involve and are examples of enormous over payments out of the public funds, and are of serious concern to this Dominion. They cover and include not only the charges made by Major Hodgins, but other specific and more serious complaints of the like nature and description; and not merely for the period dealt with by Major Hodgins but are continuous up to the time of the order of reference to your committee.

Such complaints and charges are within the scope of the order under which your committee have been conducting this inquiry and should be investigated by them.

On the 16th day of June, 1908, certain statements and opinions having been elicited from Major Hodgins as to the attitude he then assumed and his wishes in the premises as appears of record in the said printed evidence, a majority of your committee, despite the protest of the minority, ruled and thereafter maintained that the matters and charges referred to your committee for investigation should not be further proceeded with by your committee.

Your committee, therefore, humbly make this interim report and recommend that the subject-matter of the investigation be remitted to the committee with instructions to proceed therein until completion.

And the question being put on the amendment, the committee divided, as follows:—

Yeas, Messrs Barker and Lennox, 2; nays, Messrs. Carvell and Macdonald, 2. The voices being equal, the chairman, Mr. Geoffrion, declared the amendment passed in the negative.

And the question being put on the main motion, the committee divided, as follows—

Yeas, Messrs. Carvell and Macdonald, 2; nays, Messrs. Barker and Lennox, 2. The voices being equal, the chairman declared the motion passed in the affirmative.

Ordered, That the Draft Report marked 'A' be presented to the House as the report of the committee.

The committee then adjourned *sine die*.

Attest,

WALTER TODD,
Clerk.

VICTOR GEOFFRION,
Chairman.

SYNOPSIS OF EXHIBITS

No.	Date.	Subject.
	1907.	
1	.....	Memo: Showing number of men employed by J. D. McArthur, contractor, during each month from May, 1906, to October, 1907.—(*See* page 107 of the evidence.)
2	June 27....	Circular letter addressed by Chief Engineer to District Engineers apprising them of appointment of Gordon Grant as Inspection Engineer and requesting that latter be furnished with all information he may require.—(*See* page 109 of the evidence.)
2*a*	" 27....	Letter from Chief Engineer to Gordon Grant, enclosing copy of letter sent J. D. McArthur *re* unsatisfactory progress of work made under his contract.—(*See* page 109 of the evidence.)
2*b*	" 27....	Letter from Chief Engineer to J. D. McArthur notifying him that unless force of men, horses and plant is increased on certain cuttings action under clause 22 of his contract will be taken.—(*See* page 109 of the evidence.)
3	" 4....	Letter (personal) from C. A. Young to A. E. Hodgins explaining appointment of Gordon Grant as Inspecting Engineer.—(*See* page 111 of the evidence.)
4	May 9....	Letter from A. E. Hodgins to Chief Engineer, giving dates of probable completion of grading on divisions 5, 6, 7, 8 and 9.—(*See* page 123 of the evidence.)
5	June 6....	Letter from A. E. Hodgins to Chief Engineer enclosing list of heavy cuttings showing approximate line of completion.—(*See* page 124 of the evidence.)
6	Sept. 14....	Report: A. E. Hodgins to Chief Engineer *re* changing of classification on Mr. McIntosh's division, Res. 25 in the July Estimate.—(*See* page 138 of the evidence.)
7	July 25....	Letter from F. J. McIntosh to A. E. Hodgins enclosing estimates for July and stating he has made changes in the classification.—(*See* page 147 of the evidence.)
8	.....	Statement showing amount of material previously returned as Common Excavation and Loose Rock, now transferred to Solid Rock.—(*See* page 148 of the evidence.)
9	Aug. 6....	Letter from A. E. Hodgins to Chief Engineer enclosing J. D. McArthur's Progress Estimate for July.—(*See* page 149 of the evidence.)
10	.....	Statement giving figures showing the sudden jump in Solid Rock and decrease in the lower priced materials immediately following G. Grant's inspection trip on District F.—(*See* page 152 of the evidence.)
11	Sept. 7....	Letter from A. E. Hodgins to Chief Engineer enclosing two letters from McIntosh giving reasons for making change of earth and Loose Rock to Solid Rock, July Estimate.—(*See* page 152 of the evidence.)
12	Sept. 9....	Letter from A. E. Hodgins to Chief Engineer stating he believes that McIntosh was influenced by Grant's ideas of classification which are extravagant.—(*See* page 154 of the evidence.)
13	" 12....	Letter from Chief Engineer to A. E. Hodgins, asking for latter's resignation.—(*See* page 155 of the evidence.)
14	Sept. 22....	Telegram (Cipher) from A. E. Hodgins to Chief Engineer, suggesting that latter in event of McIntosh trying to justify his classification refer to Mann and Heaman.—(*See* page 155 of the evidence.)
15	" 6....	Letter from W. E. Mann to A. E. Hodgins stating that classification at many points on Division 5 and 6 is too liberal while at some points it is excessive.—(*See* page 156 of the evidence.)
16	" 9....	Letter from W. E. Mann to A. E. Hodgins *re* subject of classification with reference particularly to shut portion of the work east of east end of Canyon Lake, Mile 81.—(*See* page 158 of the evidence.)
17	" 3....	Letter from A. E. Hodgins to Chief Engineer urging necessity of latter continuing investigation of charges made in Grant's report on District F.—(*See* page 160 of the evidence.)
18	Aug. 9....	Letter from J. D. McArthur to A. E. Hodgins, congratulating latter on the July Estimate.—(*See* page 161 of the evidence.)

SYNOPSIS OF EXHIBITS—*Continued.*

No.	Date.	Subject.
	1907.	
19	" 24	Letter from Chairman Transcontinental Railway to Chief Engineer enclosing copy of memo. sent Secretary of Board together with copy of latter's reply thereto *re* unsatisfactory progress of work on Section F.—(*See* page 161 of the evidence.)
20	Aug. 27	Letter from Chief Engineer to Chairman Transcontinental Ry., stating in reply to foregoing that unsatisfactory progress of work in District F was due to lack of labour and its quality and not to the engineers on the work.—(*See* page 163 of the evidence.)
21	Nov. 19	Letter from Chief Engineer to Chairman Transcontinental Ry., stating that A. E. Hodgins took responsibility of issuing instructions to Division Engineers *re* application of force account.—(*See* page 165 of the evidence.)
22	Sept. 4	Letter from A. E. Hodgins to Chief Engineer giving reasons for classifying partially by force account.—(*See* page 165 of the evidence.)
23	Nov. 5	Newspaper clipping—"Chairman Parent gives the reasons of the Commission for retiring Engineer Hodgins."—(*See* page 176 of the evidence.)
24	Nov. 9	Letter from A. E. Hodgins to Chairman Transcontinental Ry. *re* reasons given for his dismissal.—(*See* page 176 of the evidence.)
25	Sept. 11	Letter from C. A. Young to A. E. Hodgins stating that neither he nor Commissioners ever intimated to him to classify contrary to the Contract and Specifications.—(*See* page 178 of the evidence.)
26	" 16	Letter from A. E. Hodgins to C. A. Young stating in reply to foregoing, estimates were not made up on Force Account Classification.—(*See* page 178 of the evidence.)
27	July 31	Letter from Chief Engineer to Commissioners Transcontinental Ry. enclosing G. Grant's report and reply to same from A. E. Hodgins.—(*See* page 21.)
28	July 23	Report of G. Grant *re* line under construction in District F.—(*See* page 16.)
29	" 31	Letter from A. E. Hodgins to Chief Engineer replying to foregoing.—(*See* page 22.)
30		Notes of information procured from Heaman.—(*See* page 196 of the evidence.)
31		General instructions to Engineers Transcontinental Railway.—(Referred to on page 205.)
32	June 1	Letter from A. E. Hodgins to C. A. Young reporting Mann's return and stating that if position of Assistant Engineer is still vacant he would like to have a chance to accept same.—(*See* page 265 of the evidence.)
33	" 6	Letter from A. E. Hodgins to C. A. Young stating in reply to latter's suggestion about going over the work with Mann is what he wishes to avoid.—(*See* page 266 of the evidence.)
34	Aug. 24	Telegram (cipher) from Chief Engineer to A. E. Hodgins stating that Commissioners do not approve latter's instructions to division engineers *re* classification.—(*See* page 308 of the evidence.)
35		Profile of line from mile 118 to mile 122 showing work done to the end of June, 1907.—(*See* page 322 of the evidence.)
36	Aug. 18	Letter (private and confidential) from A. E. Hodgins to M. J. Butler informing him of his decision to classify by force account in mixed cuttings.—(*See* page 370 of the evidence.)
37	" 24	Letter from M. J. Butler to A. E. Hodgins acknowledging receipt of foregoing and expressing surprise at latters' abandonment of safe course with respect to classification.—(*See* page 371 of the evidence.)
38	Oct. 7	Letter from H. A. Woods to Chief Engineer protesting against classification of material on District "B".—(*See* page 392 of the evidence.)
38 (1)	" 17	Letter from B. Bourgeois to C. L. Hervey stating that classification of material is based on appearance of the work at different stages.—(*See* page 393 of the evidence.)
38 (2)	" 18	Letter from Chief Engineer to Commissioners Transcontinental Railway, enclosing Sept. Estimate and giving reasons for his approval thereof.—(*See* page 393 of the evidence.)
38 (3)	"	Letter from Secretary Transcontinental Ry. to Macdonell & O'Brien enclosing copy of foregoing and stating that Engineers of G.T. P. Ry., and of Commission are to proceed to La Tuque to investigate complaint *re* classification.—(See page 394 of the evidence.)
38 (4)	"	Letter from Secretary Transcontinental Ry. to M. P. & J. T. Davis same as foregoing.—(*See* page 394 of the evidence.)
38 (5)	"	Letter from Secretary T. Ry. to F. W. Morse enclosing copy of letter from Chief Engineer dated 18th October, 1907, with respect to Sept. estimates of work done by Commissioners' contractors in District "B".—(*See* page 395 of the evidence.)
38 (6)	"	Letter from Secretary T. Ry. to Chief Engineer advising him of approval by Board of Sept. estimates.—(*See* page 395 of the evidence.)

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SYNOPSIS OF EXHIBITS.—*Continued.*

No.	Date.	Subject.
	1907.	
38 (7)	Oct. 19....	Letter from C. L. Hervey to A. E. Doucet stating that the classification given on Division "B" is fair.—(*See* page 396 of the evidence.
38 (8)	" 21....	Letter from A. E. Doucet to Chief Engineer stating that enclosed letter of B. Bourgeois is a direct reply to the accusation made by the Assistant Engineer G. T. P. Ry. Co., charging that excessive classification has been made. (*See* page 396 of the evidence.)
38 (9)	" 22....	Letter from same to same enclosing E. P. Girdwood's statement *re* classification throughout his residency.—(*See* page 397 of the evidence.)
38 (10)	" 21....	Letter from E. P. Girdwood to C. L. Hervey stating work was classified according to what appeared on the work at the time.—(*See* page 397 of the evidence.)
38 (11)	" 26....	Letter from A. E. Doucet to Chief Engineer communicating interpretation of engineers in District "B" placed on classification of solid and loose rock. —(*See* page 398 of the evidence.)
38 (12)	Oct. 26....	Letter from H. E. Huestis to A. E. Doucet communicating his interpretation of specifications—(*See* page 398 of the evidence.)
38 (13)	"	Letter from C. L. Hervey to A. E. Doucet. Same as foregoing.—(*See* page 399 of the evidence.)
38 (14)	"	Letter from B. Bourgeois to A. E. Doucet. Same as foregoing.—*See* page 399 of the evidence.)
38 (15)	"	Letter from A. R. Matthews to A. E. Doucet. Same as foregoing.—(*See* page 401 of the evidence.)
38 (16)	" 30....	Letter from Chief Engineer to Commissioners T. Ry. reporting *re* his visit to La Tuque.—(*See* page 401 of the evidence.)
38 (17)	Nov. 4....	Letter from Secretary T. Ry. to H. Atkinson requesting his opinion as to right of G.T.P. Ry. Co. to interfere in matters of classification. -(*See* page 402 of the evidence.)
38 (18)	Oct. 31....	Letter from Macdonell & O'Brien to Secretary T. Ry. questioning the right of G.T.P. Ry. Co. to interfere in matters of classification.—(*See* page 403 of the evidence.)
38 (19)	Nov. 7....	Report of H. Atkinson concurring in view taken by contractors as to power of engineers of G.T.P. Ry. Co. *re* question of classification.—(*See* page 404 of the evidence.)
38 (20)	" 11....	Letter from Chief Engineer to Commissioners T. Ry. stating he will approve of October estimates under certain conditions.—(*See* page 405 of the evidence.)
38 (21)	" 12....	Letter from F. W. Morse to Chairman T. Ry. stating in reply to letter sent him by Secretary T. Ry. dated 18th Oct that understanding was that departmental matters were to be worked out by heads of departments.—(*See* page 405 of the evidence.)
38 (22)	" 13....	Letter from Chief Engineer to Commissioners T. Ry. transmitting replies from district engineers *re* their interpretation of certain clauses of specifications. —(*See* page 406 of the evidence.)
38 (23)	Oct. 26....	Letter from G. C. Dunn to Chief Engineer communicating his interpretation of specifications.—(*See* page 406 of the evidence.)
38 (24)	"	Letter from A. N. Molesworth to Chief Engineer. Same as foregoing.—(*See* page 408 of the evidence.)
38 (25)	"	Letter from S. R. Poulin to Chief Engineer. Same as foregoing.—(*See* page 408 of the evidence.)
38 (26)	Nov. 14....	Letter from Secretary T. Ry. to Macdonell & O'Brien transmitting copy of Chief Engineer's letter *re* interpretation of specifications.—(*See* page 409 of the evidence.)
38 (27)	"	Letter from Secretary T. Ry. to M. P. & J. T. Davis. Same as foregoing.—(*See* page 410 of the evidence.)
38 (28)	" 15....	Letter from M. P. & J. T. Davis to T. Ry. Commissioners stating that contentions of Chief Engineer appear to them to be in conflict with the meaning and interpretation of the specification and enclosing legal interpretation.—(*See* page 410 of the evidence.)
38 (29)	" 9....	Letter from G. P. Sheply and E. Lafleur to M. P. Davis giving their interpretation of certain clauses of specifications.—(*See* page 411 of the evidence.
38 (30)	" 13....	Letter from same to same expressing their views as to the classification of loose rock made by local engineers in District "B".—(*See* page 412 of the evidence.)
38 (31)	" 12....	Letter from C. H. Ritchie to M. P. Davis giving his interpretation of specifications.—(*See* page 413 of the evidence.)
38 (32)	Nov. 16....	Letter from A. E. Doucet to Chairman T. Ry. Commission explaining conversation had with J. Armstrong *re* classification at La Tuque.—(*See* page 413 of the evidence.)

SYNOPSIS OF EXHIBITS.—*Continued.*

No.	Date.	Subject.
	1907.	
38 (33)	.....	Statement of C. L. Hervey showing classification of material at La Tuque for months of June, Aug. and Oct., 1907.—(*See* page 415 of the evidence.)
38 (34)	Nov. 21....	Letter from M. P. & J. T. Davis to Commissioners T. Ry. enclosing further legal interpretations of specifications.—(*See* page 416 of the evidence.)
38 (35)	" 20....	Letter from Sir Alex. Lacoste to M. P. Davis giving his interpretation of specifications.—(*See* page 416 of the evidence.)
38 (36)	" 18....	Letter from S. Beaudin to M. P. Davis. Same as foregoing.—(*See* page 417 of the evidence.)
38 (37)	" 22....	Letter from Macdonell & O'Brien to Secretary T. Ry. enclosing D. McMaster's opinion on proper construction of clause 34 of specifications.—(*See* page 418 of the evidence.)
38 (38)	Oct. 31....	Letter from D. McMaster as to what constitutes "solid rock excavation" within the meaning of specifications.—(*See* page 418 of the evidence.)
38 (39)	Nov. 23....	Letter from Secretary T. Ry. to Hon. Minister of Railways transmitting correspondence *re* complaint made to Chief Engineer by the Assistant Engineer G.T.P. Ry. Co. as to classification in District "B".—(*See* page 419 of the evidence.)
38 (40)	" 27....	Letter from Aylesworth, Wright & Moss to Secretary T. Ry. stating W. Nesbitt's interpretation of specification will be sent 28th inst.—(*See* page 420 of the evidence.)
38 (41)	" 28....	Telegram from M. J. O'Brien to Secretary T. Ry. stating that other opinions will be sent.—(*See* page 421 of the evidence.)
38 (42)	Dec. 2....	Letter from Secretary T. Ry. to Hon. Minister of Railways enclosing W. Nesbitt's interpretation of specifications.—(*See* page 421 of the evidence.)
38 (43)	Nov. 28....	Letter from Aylesworth, Wright & Moss to Secretary T. Ry. enclosing W. Nesbitt's interpretation of specifications.—(*See* page 421 of the evidence.)
38 (44)	" 26....	Letter from W. Nesbitt to Macdonell & O'Brien giving his interpretation of specifications.—(*See* page 423 of the evidence.
38 (45)	Dec. 5....	Letter from Hon. Minister of Railways to T. Ry. Commissioners returning correspondence bearing upon the classification of work with request that Commissioners take such action as seems to them necessary.—(*See* page 423 of the evidence.)
38 (46)	" 6....	Letter from Secretary T. Ry. to Chief Engineer referring copy of file *re* question of classification.—(*See* page 424 of the evidence.)
38 (47)	" 16....	Letter from Chief Engineer to Commissioners T. Ry. submitting his interpretation of specifications.—(*See* page 424 of the evidence.)
38 (48)	" 16....	Letter from Chief Engineer to Commissioners T. Ry. stating he will approve of November estimates on condition such approval shall not prejudice reconsideration of classification.—(*See* page 425 of the evidence.)
38 (49)	" 17....	Letter from Secretary T. Ry. to Chief Engineer stating that recommendation contained in foregoing has been approved by the Board.—(*See* page 426 of the evidence.)
38 (50)	" 20....	Letter from Secretary T. Ry. to Hon. Minister of Justice submitting correspondence *re* complaint made to Chief Engineer by Assistant Engineer G.T.P. Ry. Co. as regards classification.—(*See* page 426 of the evidence.)
	1908.	
38 (51)	Jan. 8....	Letter from Secretary T. Ry. to Chief Engineer enclosing letter from Deputy Minister of Justice *re* interpretation of specifications.—(*See* page 427 of the evidence.)
38 (52)	" 6....	Letter from Deputy Minister of Justice to Secretary T. Ry. giving his interpretation of specifications.—(*See* page 427 of the evidence.)
38 (53)	" 9....	Letter from Chief Engineer to Commissioners T. Ry. giving his revised interpretation of specifications.—(*See* page 428 of the evidence.)
38 (54)	.....	Diagram illustrating chief engineers interpretation of specifications.—(*See* page 430 of the evidence.)
38 (55)	Jan. 14....	Letter from Secretary T. Ry. to Chief Engineer communicating Board's approval of his interpretation of specifications.—(*See* page 431 of the evidence.)
38 (56)	" 30....	Letter from Chief Engineer to A. E. Doucet stating that actual measurement must be made as a rule of all work.—(*See* page 431 of the evidence.)
38 (57)	" 30....	Letter from same to same enclosing copy of his interpretation of specifications and requesting to be informed whether classification in his district conforms to such interpretation.—(*See* page 431 of the evidence.)
38 (58)	Feb. 1....	Letter from A. E. Doucet to Chief Engineer stating that instructions contained in latter's letter of 30th will be communicated to all division engineers.—(*See* page 432 of the evidence.)

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SYNOPSIS OF EXHIBITS.—*Concluded.*

No.	Date.	Subject.
	1908.	
38 (59)	Feb. 19	Letter from Chief Engineer to A. E. Doucet requesting reply to clause 2 of his letter anent interpretation of specifications.—(*See* page 432 of the evidence.)
38 (60)	" 20	Letter from A. E. Doucet to Chief Engineer stating that classification in his district conforms to latter's interpretation of specifications.—(*See* page 432 of the evidence.)
38 (61)	March 14	Letter from Chief Engineer to A. E. Doucet inquiring whether classification in his district prior to 30th Jan'y, 1908, conformed to his interpretation of specifications.—(*See* page 433 of the evidence.)
38 (62)	" 20	Letter from A. E. Doucet to Chief Engineer acknowledging receipt of foregoing and stating that classification throughout his district prior to Jan. was in accordance with latter's interpretation of specifications.—(*See* page 433 of the evidence.)
39		List of work done at each cut from station 5760 to station 6806 and percentages of solid and loose rock.—(*See* page 483 of the evidence.)
40		Percentage of work done at cut station 6030-6046, from September 1906, to April 30, 1908.—(*See* page 483 of the evidence.)
41		Estimate (original) of the cost of District " F " made by Major Hodgins.—(*See* page 484 of the evidence.)
42		Estimate of cost of District " F " made by resident and division engineers after Major Hodgins left.—(*See* page 485 of the evidence.)
43		Estimate (revised) of Major Hodgins as to cost of District " F."—(*See* page 486 of the evidence.)
44		Ledger containing figures showing his original estimate of the cost of District " F."—(*See* page 57.)

MINUTES OF EVIDENCE AND DISCUSSIONS

SPECIAL COMMITTEE INVESTIGATING

Major Hodgins Charges.

WEDNESDAY, April 29, 1908.

Mr. CARVELL.—Mr. Chairman, the reference made to this committee is in a somewhat different position from those in the majority of inquiries by parliamentary committees in this House, inasmuch as there has been no specific charge laid excepting what has been published in the newspapers. It would seem to me that the first thing we have to do is to secure the attendance of Major Hodgins and, I suppose, either to get him to acknowledge the authorship of the interviews which have been published in the newspaper press, or, in some way, to lay a complaint. What do you think about that, Mr. Barker?

Mr. BARKER.—I think that would be proper.

The CHAIRMAN.—Has there been any correspondence at all between Major Hodgins and the Commission?

Mr. LENNOX.—There is some.

Mr. BARKER.—That has been brought down.

Mr. CARVELL.—That correspondence is in the return which has been brought down, but it has nothing to do with the matter under investigation.

Mr. BARKER.—I think it has a bearing on it.

Mr. LENNOX.—It has a bearing on the matter which has been referred to us.

Mr. CARVELL.—If that were all there would be nothing to investigate. In order to bring the matter formally before the committee I will move, seconded by Mr. Macdonald, that the clerk be instructed to notify Major Hodgins by wire that his appearance is desired before this committee. Now on what day shall we request his appearance?

Mr. BARKER.—He has to come from British Columbia.

Mr. CARVELL.—Then we will make it Friday, May 8, at 11 o'clock in the forenoon. We will require Major Hodgins to appear then and prefer his charges so that we may proceed with the investigation.

Mr. BARKER.—We must ask him to bring papers connected with this matter with him, if he has any.

Mr. CARVELL.—Yes, that had better be added to the motion.

Motion put and carried.

Mr. MACDONALD.—We ought to notify the Transcontinental Railway Commission that we have fixed Friday, May 8, as the date for the commencement of the examination.

The CHAIRMAN.—Yes, the clerk will attend to that.

Mr. BARKER.—Now, can we do anything about obtaining plans?

Mr. MACDONALD.—We can ask the commission to submit any documents or information which they have. I move that the clerk notify the commission that the committee will meet on Friday, May 8, for the purpose of beginning the investigation, and asking them to submit to us any documents or information which they desire to present.

Mr. BARKER.—It would be well, I suppose, if they would do that.

Mr. MACDONALD.—As soon as they conveniently can.

Mr. BARKER.—I should think we would want all the plans relating to these contracts that are spoken of. That is the original surveys and any alterations which have been made, and the notes of the engineers as to material. That is about all that I can think of in that connection at present.

The CHAIRMAN.—Very well. Then, Mr. Macdonald, will you embody that in your motion?

Mr. CARVELL.—Just a moment. I have no objection to that suggestion being accepted, but the scope of the information which we will require from the commissioners will depend very much upon what Mr. Hodgins will say when he gets here.

Mr. BARKER.—That is quite clear from what we read in the newspapers; the charge is that it is all as to classification, and we cannot know whether there has been any alteration in the classification unless we know how they started.

Mr. MACDONALD.—Would that indicate that you would want to go back to the field notes of the engineer?

Mr. BARKER.—To the results of the preliminary surveys. We do not want the actual field notes on which they were based.

Mr. CARVELL.—I quite agree that we want everything that has any bearing; for instance, when the contract was let they had certain estimates for each cut and fill. I think we need that, but I would not imagine we want to go back of the preliminary survey.

Mr. BARKER.—Anything that the contractors should know, we want that, and any alterations that have been made after that at any time.

Mr. LENNOX.—They would probably have drawings that will enable us to understand what the different witnesses are talking about when they come here to give evidence.

Mr. BARKER.—Briefly, we want the plans and everything of that kind. Mr. Lumsden, the engineer, will understand exactly what we want.

Motion carried.

Mr. BARKER.—What about our sittings when the other committees are working? Can you fix it so that we can meet when the other committees are not at work?

The CHAIRMAN.—Can't we sit in the evenings instead of in the mornings when the other committees are working.

Mr. BARKER.—I think that could be done.

Mr. LENNOX.—We can arrange from time to time with regard to our sittings.

Mr. CARVELL.—I think it will be advisable to get a number of copies of the correspondence attached to Mr. Parent's letter, so that each member of the committee might have a copy to refer to. Do you know, Mr. Barker, whether Mr. Borden has a copy of the 'Colonist' containing Mr. Hodgins' original letter?

Mr. BARKER.—I have it, and I will hand it to Mr. Todd for the use of the committee.

Mr. CARVELL.—If Mr. Barker will put in that copy of the original letter the clerk could have copies made. I notice in reading over the file that a telegram is referred to there which is not produced. I think it is a telegram sent to Mr. Hodgins. We want that also.

Mr. LENNOX.—It is either from Mr. Lumsden or somebody else on behalf of the board.

Mr. MACDONALD.—Yes, the telegram which is referred to in the correspondence and which, apparently, was sent by the board to Mr. Hodgins.

Mr. CARVELL.—I do not think it was sent by the board.

Mr. MACDONALD.—Well, it would not be sent by the board, but by either Mr. Lumsden or Mr. Parent, and it should form a part of the record.

The CHAIRMAN.—The clerk can ask the commission to furnish a copy of that telegram and have it included in the records in its proper place.

The committee adjourned.

APPENDIX No. 5

FRIDAY, May 8, 1908.

The CHAIRMAN.—Now, gentlemen, what is your pleasure ?

Mr. BARKER.—I understand Major Hodgins is here.

The CHAIRMAN.—Are you ready to examine Major Hodgins ?

Mr. CARVELL.—We had better hear from Major Hodgins first and see what he has to say.

The CHAIRMAN.—Is Major Hodgins here ?

Major HODGINS responds by rising to his feet.

The CHAIRMAN.—Major Hodgins, certain charges have been preferred by you in certain newspapers and this committee has been appointed by the House of Commons to investigate those charges. Before we proceed with your examination have you any statement to make ?

Mr. FRANK HODGINS, K.C.—May I, as representing Major Hodgins this morning, make answer to that ?

The CHAIRMAN.—You may.

Mr. HODGINS.—I represent Major Hodgins to-day.

The CHAIRMAN.—Well ?

Mr. HODGINS.—In deference to the telegram received by him from the committee, Major Hodgins came from Victoria but only arrived yesterday, and I have not had more than a brief opportunity for consultation with him. The last telegram which he received required him to attend before the committee to-day for the purpose of preferring charges, and in the short time I have had to discuss it with him, I confess that I was not clear from the reference and the telegram, whether the committee desired us merely to repeat what was in the letter or to specify a little more definitely and particularly what the charges were so that the members of the commission would understand exactly what the complaint was and what they had to meet. If it be the desire of the committee that those should be set out with some little particularity—particularity enough to enable them to be readily understood and dealt with by the committee and by counsel for the commission—then we would be prepared to put those in after an opportunity had been afforded to Major Hodgins and myself to consult about them. I propose to ask, Mr. Chairman and gentlemen, that before the examination of witnesses takes place we shall have the opportunity of seeing the productions by the commission. The main charge, of course, is with regard to these accounts, these estimates, which have been put in and which are, we believe, over-classified. Now, the productions of these estimates showing the details gill give us the over-classification. Without those, of course, we cannot do any more than speak in general terms. If the committee will make an order for the production of those returns for District 'F,' and also an order for the production by the Grand Trunk Pacific Railway of their engineers' reports upon the same work from their point of view, those two together will enable Major Hodgins, I think, to establish what he says —that there is over-classification.

Mr. MACDONALD (Pictou).—Is that all you say, that there is over-classification ?

Mr. HODGINS.—I am not intending to etxend my charges, I am speaking in general terms and I say improper or over-classification.

Mr. MACDONALD (Pictou).—I understood you to say that the main charge was in regard to the incorrect estimates, that is that there was incorrect classification by the engineers ?

Mr. HODGINS.—Yes.

Mr. MACDONALD (Pictou).—Do you connect any errors that may have been made by the engineers with the members of the commission ?

Mr. HODGINS.—As I say, I don't want to answer that off-hand because I want to see how far the charges go that are contained in the letter.

Mr. CARVELL.—You would not expect this committee to decide as to the judgment of the engineers unless you connected it with the commission, would you?

Mr. HODGINS.—I am not prepared to say. I think if there were over-classifications there to the knowledge of the commission, and the commission passed them and paid them, and are still doing so, it is a matter for the committee to sift.

Mr. MACDONALD (Pictou).—You are aware that the contract provides for the settlement of any question of that kind by arbitration?

Mr. HODGINS.—I don't know that it absolves the commission from seeing there is proper classification.

Mr. MACDONALD (Pictou).—No, certainly not.

Mr. HODGINS.—If it is wrong and the commission allowed it to go on I should not think that could be settled by arbitration.

Mr. CARVELL.—But if there is a dispute do you now know that contract provides that the chief engineer of the commission and the engineer of the Grand Trunk Pacific are to sit as arbitrators? If they cannot agree a third arbitrator is to be chosen and they settle these questions of classification.

Mr. HODGINS.—Well, I don't know that that affects Major Hodgins. He is not supposed to put the chief engineer of one or the other in motion. His charges do not refer to the question of arbitration, but to the fact that there is improper classification which has been adopted and which is still going on.

Mr. CARVELL.—Well, then, would it not be better for Major Hodgins to make that charge along the lines of the reference to this committee? Because you will understand we only have the power to take into consideration the subject-matter as contained in these newspapers. Would it not be better for Major Hodgins to make his charges and then you will have the right to ask for the production of witnesses and papers and anything you wish in order to substantiate those charges?

Mr. HODGINS.—I quite agree. I am not asking, let it be understood, for the production of these papers before we specify our charges, but I am asking that when the charges are made and before we are required to give evidence, that we have access to the documents which are essential to prove the charges.

Mr. MACDONALD (Pictou).—Let us be clear about this. The order of reference states that there is referred to us the memorandum of the chairman of the Transcontinental Railway Commissioners and the papers accompanying the same, together with the letter of Major Hodgins to the public press. Now, we find here a letter dated Victoria, April 16, purporting to come from Major Hodgins, and we understand that gentleman says he wrote that letter and purposes to submit to us evidence of the statements contained in it.

Mr. HODGINS.—That is the reference?

Mr. CARVELL.—Pardon me, I don't think the question was answered.

Mr. MACDONALD (Pictou).—I am only wanting to find out so that we shall know where we are. This is what was referred to us. Now, do we understand Major Hodgins to say that he wrote that letter of April 16, and that he stands by it now?

Mr. HODGINS.—Certainly.

Mr. MACDONALD (Pictou).—And that he wants to submit evidence upon it? Then there is an extract from the Manitoba 'Free Press' of April 18, purporting to be a despatch from Vancouver on April 17, containing certain other statements.

Mr. HODGINS.—I don't know anything about that. Is that attached to Mr. Parent's letter? I have not seen that.

Mr. MACDONALD (Pictou).—You have not seen that?

Mr. HODGINS.—No. What I have seen is a letter in the Victoria 'Colonist' which appeared on April 17. I have also seen what purported to be an interview, which is incorrect in some details, appearing in the 'Colonist' on April 19, and I have seen a correction of that, two or three days later, in some particulars.

APPENDIX No. 5

Mr. Macdonald (Pictou).—Let us take them seriatum. We have first this letter from the 'Colonist.' Then there is the extract from the Manitoba 'Free Press,' but you don't know about that?

Mr. Hodgins.—I have not seen that. It is not printed in 'Hansard,' but just referred to, and I was unable to see what it was that was referred to.

Mr. Macdonald (Pictou).—Then there is an extract from the Ottawa 'Citizen' of April 22. Do you know anything about that? I don't understand that you are assuming any responsibility for that?

Mr. Hodgins.—No, because we have not seen that. It may or may not correctly report what was said.

Mr. Macdonald (Pictou).—Then there is an extract from the 'Daily Colonist' of April 19, containing what purports to be an interview with Major Hodgins.

Mr. Hodgins.—Like a great many other interviews, it had a basis of circumstantiality about it, but was expanded a little afterwards by the interviewer, and is not exactly correct.

Mr. Macdonald (Pictou).—The enterprising newspaperman lent his imagination to it.

Mr. Hodgins.—That is correct which is signed by Major Hodgins.

Mr. Macdonald (Pictou).—It has no bearing in regard to the reference made to us, that there were some misstatements.

Mr. Hodgins.—There were some inaccuracies that he does not take the responsibility for. For instance, there was a calculation based upon certain facts which, of course, he is not——

Mr. Macdonald (Pictou).—He is not responsible for.

Mr. Hodgins.—Not responsible for.

The Chairman.—What do you acknowledge responsibility for, the article which appears in the 'Colonist'?

Mr. Barker.—Let me remind you of what Mr. Hodgins has said. He said that his client only arrived yesterday, and that he had not had the opportunity to go into the matter with him. It seems to me that if we are going to take any proceedings, which shall be of any value, as to the charges, we should ask Major Hodgins, through his counsel or otherwise, to put in charges.

The Chairman.—That is just what I thought.

Mr. Barker.—I do not think we can enter upon any long examination until the papers have been produced.

Mr. Macdonald (Pictou).—I was just wanting to see how we stood upon that.

Mr. Hodgins.—Quite so.

Mr. Macdonald (Pictou).—Then I assume, Mr. Hodgins, that your idea in making the request is to summarize some of these statements that are contained in these articles, and that you will introduce no extraneous charges, because we cannot deal with anything that has not been referred to us.

Mr. Hodgins.—I understand the committee has a certain scope, and unless it were necessarily involved in what was referred to the committee——

Mr. Macdonald (Pictou).—I understand you are asking for time to summarize these statements?

Mr. Lennox.—To formulate charges?

Mr. Carvell.—Along the lines of the letter and interview referred to in the British Columbia 'Colonist?'

Mr. Hodgins.—Let me make myself quite clear. Supposing that I personally do go, either inadvertently or otherwise, outside of what the committee consider to be the scope of the reference to them, then I suppose it is for the committee to say so. But my general idea was that the reference to the committee was of the matters which appear first in the memorandum of Mr. Parent and in the newspaper cuttings which I have not seen, and secondly the letter of Major Hodgins and the interviews that affect that letter.

Mr. LENNOX.—And all other matters that are in the papers referred to us.

Mr. MACDONALD (Pictou).—Yes.

Mr. HODGINS.—I may say frankly I have no intention of travelling outside of that and giving the committee unnecessary trouble in dealing with it.

Mr. CARVELL.—Of course, the committee would have the right to exercise their discretion in receiving evidence upon any extraneous matters.

Mr. HODGINS.—The telegram to Major Hodgins was very general.

Mr. CARVELL.—Our object was to have an understanding this morning of the lines along which the formal charges would be preferred.

Mr. HODGINS.—Quite so. But the telegram to Major Hodgins was very general in its scope, 'To prefer charges *re* character of construction work,' and I was not aware until I heard the statements of the committee whether they proposed to simply take the paper and say, 'Here are your charges, go on and prove them,' or whether they desired us to formally prefer charges.

Mr. LENNOX.—We cannot expect Mr. Hodgins to be very definite, from the fact, as he says, that he has only had a very brief interview with his client.

The CHAIRMAN.—Of course it would be very useful to know from Major Hodgins for what charges he accepts responsibility. Mr. Hodgins says that the interview in the Victoria 'Colonist' is not correct. We want to find out what is correct.

Mr. HODGINS.—Quite so.

The CHAIRMAN.—What do you admit to be correct? You say that the interview referred to was not correct, and the other statements in other papers you claim not to have seen or to know anything about?

Mr. HODGINS.—I think I read one of the cuttings some days ago.

Mr. CARVELL.—I presume you would admit, in case the formal charges which you may make here as representing Major Hodgins did not include everything in the reference to this committee, that the committee would still have the right to go on and inquire into the foundation of the charges in the newspapers and in the reference?

Mr. HODGINS.—I did not quite catch your question.

Mr. CARVEL.—In case the formal charges you will prefer do not include everything mentioned in the reference, you will admit the committee have the power to go further and investigate everything that is in the reference?

Mr. HODGINS.—Would my admission add to the power of the committee?

Mr. CARVELL.—I am asking for your opinion.

Mr. BARKER.—This gentleman cannot admit anything.

Mr. PARENT.—The gentleman says he is going to put in new charges, I understand. All the charges are now before the committee. It is alleged that Major Hodgins wrote those letters, and we want to know whether he did so or not. We want to get that gentleman under oath and ask him if he stands by the charges.

Mr. BARKER.—Here is what the commissioners say: 'In conclusion, the commissioners would respectfully request, as they do not wish to remain under the aspersion which such reports cast on them'—after having detailed a number of charges—'that the whole matter be referred to and looked into by committee of the House, and that Major Hodgins be assigned to appear before the same to repeat his charges in a specific manner in order to substantiate them if he can.' Now that is pretty broad. What I think is that Mr. Hodgins, K.C., should now state when he will be prepared to hand in his charges in accordance with the papers which have been submitted to the committee.

Mr. LENNOX.—And in accordance with what we resolved the other day.

Mr. MACDONALD (Pictou).—It being understood—I think Mr. Parent has so understood and I understand Mr. Hodgins, K.C., to say so—that the memorandum he proposes to submit to us does not relate to anything outside of what has been already referred to the committee, in the papers, but is only a summarization of the allegations contained in the newspapers.

Mr. CARVELL.—And does not necessarily curtail our rights.

Mr. LENNOX.—Does not either enlarge or curtail.

Mr. PARENT.—I know what is coming, gentlemen. Mr. Hodgins said so a minute ago. What he wants is larger scope.

Mr. MACDONALD (Pictou).—There will be no larger scope, he has to confine himself to the reference.

Mr. PARENT.—I claim that the full charges are already before this committee and the plaintiff in this case should come up like a gentleman under oath and repeat those charges. Those which he cannot repeat we will eliminate. If he cannot bring proof on something let him go on with what he thinks he can prove; but I do not want him to go outside of the charges already made and bring in something else. Major Hodgins is here to-day. He has got to make his charges. Let him take the oath and make them and then we will answer them.

Mr. BARKER.—I think we had better proceed orderly in this matter. Neither Mr. Hodgins nor his counsel, nor Mr. Parent, can dictate to this committee. We have got to perform our duty here, and we intend to do so. I would like to ask, Mr. Chairman, when Mr. Hodgins will be prepared to put in his charges?

Mr. PARENT.—Before proceeding any further I want to know this: What do you intend to do about our case? This gentleman who makes the charges is aided by a lawyer, and I want to know what the committee are going to do as far as the commission are concerned?

Mr. CARVELL.—I am afraid Mr. Parent has misunderstood the object of this discussion.

Mr. PARENT.—No, I have not.

Mr. CARVELL.—I think it is in the minds of every member of the committee that we will not allow Mr. Hodgins to enlarge the charges as contained in the newspaper reports.

Mr. BARKER.—Nor reduce them.

Mr. CARVELL.—If he proposes to reduce them then so far as I am concerned, speaking for my own part, I would say we ought to stand by the reference to the committee, and after Major Hodgins makes his charges, then we will know what course to pursue.

Mr. PARENT.—I have no right to dictate to the committee. I know they are able men and I intend to respect them, but I say this: the proper course, in my opinion, is for that gentleman to take the oath, then to show him the newspaper clippings and go over the charges one by one. If he stands by them well and good. If he cannot prove them then he should be compelled to say so.

Mr. LENNOX.—With all due respect we must confine ourselves at present to determining what is the best procedure to follow in order to carry out what has been referred to us. That we are endeavouring to do. The charges made by Major Hodgins will be to some extent, perhaps, of assistance to us; but we have to travel exactly upon the lines of what has been referred to us, neither enlarging nor circumscribing them. That fact does not relieve us from the duty of pursuing the matter just as it has been referred to us nor from investigating all the questions referred. I think every member of the committee understands that.

Mr. CARVELL.—Yes.

The CHAIRMAN.—According to my idea we have met this morning to hear the charges which have been referred to us. Major Hodgins, who makes the charges is represented by counsel who says that he has not had time to talk the matter over with his client. The situation is this according to my mind, subject of course to the approval of the committee. We have specific charges made by Major Hodgins, and they are in black and white. We intend to ask Major Hodgins if he is ready to substantiate the charges which he has preferred as soon as possible. The only question which arises this morning, in my opinion, is what delay shall be granted; that is all. The charges are here and the intention of the committee, I think, is to ask Major

Hodgins under oath—first if he is ready to substantiate any charges, and second, what charges he is prepared to substantiate. Afterwards we will proceed to the examination of witnesses. It is for the committee to say whether they are ready to grant a certain time to Mr. Hodgins, K.C., to interview his client and talk the matter over with him. That is the only question so far. Next we will examine Major Hodgins himself and ask him whether he is able to substantiate the charges and then proceed with the examination of witnesses. That, as I understand, is the scope of the work of the committee.

Mr. BARKER.—Will you ask Major Hodgins' counsel now when he will be prepared to put in those charges?

The CHAIRMAN.—Mr. Hodgins, will you give us that information?

Mr. HODGINS.—I think I may say that if I continue to act as counsel the charges could be put in by Monday or Tuesday, but I may be unable to continue to act for Major Hodgins.

The CHAIRMAN.—What do you mean by putting in charges?

Mr. HODGINS.—I have the telegram which was sent by order of the committee to Major Hodgins and this is how it reads: 'Please understand object of summons to appear before Special Committee is to prefer charges *re* character of construction work Transcontinental Railway alleged to have been made by you in the public press.' I take it that the committee wish us to take the trouble of going over what appeared in the public press, and putting it into some form that will be intelligible both to the committee and those affected by it, giving such particulars as would enable the charge to be understood and dealt with.

Mr. CARVELL.—I do not think that was the intention of the committee, though.

The CHAIRMAN.—The committee will not allow you to make new charges. As I understand it we will take those charges that have been made in the public press.

Mr. HODGINS.—Quite so.

The CHAIRMAN.—And we will ask Major Hodgins whether he is ready to substantiate them.

Mr. BARKER.—There is more than that, if you read Mr. Parent's communication to the Prime Minister.

Mr. LENNOX.—And if you read the minutes of our meeting the other day when we organized you will see what we decided then. I understood that Major Hodgins was to formulate his charges.

Mr. CARVELL.—Not to formulate but to prefer charges. I believe the resolution here (reads): 'That the clerk be instructed to notify Major Hodgins by wire that he is to appear before the committee on Friday, 8th May next, at 11 a.m., there to prefer his charges and bring with him all papers, correspondence and memoranda relating to the matters mentioned in the Order of Reference.' Now the preferring of charges means that Major Hodgins shall state whether he stands by the charges in the newspapers or not. If Major Hodgins can make it a little plainer, if he will say 'There is a letter in the newspapers purporting to be signed by me and I have got that letter——

Mr. MACDONALD (Pictou).—His counsel has already said that.

Mr. HODGINS.—I have already said that.

Mr. CARVILL.—That is settled then? Now it is for Major Hodgins or his counsel to say in regard to the newspaper interview 'We adopt that. The interview is quite correct.'

Mr. MACDONALD (Pictou).—Mr. Hodgins has already intimated that it is not correct.

Mr. CARVILL.—If any part of the interview is not correct Major Hodgins will have the right to say so. We are not here for the purpose of having new charges entirely made but simply for the purpose of taking up the charges which are contained in the reference. Let Major Hodgins say 'I stand by those or I do not.'

APPENDIX No. 5

Mr. MACDONALD (Pictou)—Let him indicate out of the letter and interview what statements he proposes to prove. That is the point.

Mr. BARKER.—Let me say one word. Here is the communication from the commissioners in which Mr. Parent complained that Major Hodgins makes vague and general accusations. He is referring to Major Hodgins' letter and to the statements in the newspapers and he says that the commissioners—for the reasons that I have already stated—desire 'that Major Hodgins be assigned to appear before the same'—that is the committee— 'to repeat his charges in a specific manner'——

Mr. MACDONALD (Pictou)—In order to substantiate them.

Mr. BARKER.—In order to substantiate them if he can. This gentleman when the committee met last was in Victoria, B.C. He was telegraphed for to come here to-day and bring his papers with him. I understand from what Mr. Hodgins, K.C., has said that Major Hodgins, complying with the order of the committee, arrived in Toronto yesterday, and he has only had an hour or so to see his counsel. Major Hodgins is now here to repeat his charges in a specific manner, but the question for this committee is whether they are acting reasonably if they demand that he should do so without being allowed any time at all ?

The CHAIRMAN.—That is the only question.

Mr. BARKER.—Then the question is whether the chairman should not, as I requested him a little while ago, ask the counsel when he will be prepared to repeat those charges in a specific manner.

The CHAIRMAN.—That is what I did.

Mr. BARKER.—You were asking that he should go on with it.

The CHAIRMAN.—I never said that.

Mr. CARVELL.—Oh, no.

The CHAIRMAN.—I only said that the question involved is one of delay.

Mr. CARVELL.—But there is a question beyond that. There is the question whether Major Hodgins at the next meeting of this committee will say 'I stand by that letter and I stand by certain paragraphs in the interview,' or whether he should be allowed to come here and put on the record entirely new charges.

The CHAIRMAN.—That is it.

Mr. MACDONALD (Pictou)—I think his counsel understands that fully.

Mr. HODGINS.—I will make it perfectly clear. I have never stated, and do not now state, that I desire any delay for the purpose of putting in totally new charges. I propose to take the charges already named and put them into intelligible shape so that they can be understood and dealt with. I don't think I can make it any clearer than that.

Mr. CARVELL.—Let me ask you if, by proposing to put the charges into intelligible shape, you mean that you will add to them ?

Mr. HODGINS.—I do not understand the question. Add to what?

Mr. CARVELL.—Add to the charges contained in any one paragraph of that interview or letter.

Mr. HODGINS.—Not in substance, but I say where you have a general charge. Take any of the charges that are referred to in Mr. Parent's letter. Those that are there stated in the most general terms and give us the most general right to go over the whole of the district and the whole period of time, do you want us to particularize them——?

Mr. MACDONALD (Pictou).—Certainly we do.

Mr. HODGINS.—Or do you want us to come here on general charges without giving you the faintest idea of how we are going to prove them, or what the charges will amount to? It is a matter very largely to my mind for the convenience of the committee, but I want it clearly understood that what I wish is to have an opportunity of consulting with Major Hodgins and putting the charges he has already made in a shape that will be readilly understood both by the committee and the commission.

The CHAIRMAN.—Very well, but I think the intention of the committee, and certainly my intention, is not to adopt especially the statements which you will pre-

pare, but to take the newspapers containing the articles written or the charges made by Major Hodgins and ask him 'Are they true and are you able to substantiate them'?

Mr. MACDONALD (Pictou).—I think we are playing at cross purposes. I think what Mr. Hodgins, K.C., means is this: he proposes to indicate out of this letter and interview in the paper what particular portions he proposes to prove.

Mr. CARVELL.—If he stands by that there is no objection.

Mr. MACDONALD (Pictou).—That is how I understand it, and the committee have the right to investigate everything contained in the order of reference.

Mr. PARENT.—We have been accused in the newspapers —

The CHAIRMAN.—Yes, it has been spread all over the country.

Mr. PARENT.—If the gentleman is allowed to limit his charges, I suppose the evidence will be confined to that?

Mr. CARVELL.—Oh, no.

Mr. MACDONALD (Pictou).—Do not worry about that.

The CHAIRMAN.—We will have the right to examine Major Hodgins on the rest of the charges which he may drop, even if he does not prefer them.

Mr. PARENT.—As far as we are concerned we would like to go through the whole of the charges contained in these newspapers.

Mr. HODGINS.—Let me say that I have not asked to drop any charges.

Mr. LENNOX.—I understand the case to be this: A client comes to one of us and gives his statement in a general way. We draw up a statement of claim, we classify it, set the matter forth in paragraphs and place it in better shape than it was before. But that does not change any of the evidence which has to be produced in any degree; we cannot do that. It may happen that when Major Hodgins prefers his charges there may be omitted matters which have been referred to us. Nevertheless although he may not claim to be able to establish it, we can investigate the matter, as it has been referred to us.

The CHAIRMAN.—I understand the fear entertained by Mr. Parent to be this: These charges having been printed in the newspapers and circulated all over the Dominion it would not be fair that any of the charges or points dealt with in the newspaper articles should be dropped altogether.

Mr. BARKER.—Oh, no.

The CHAIRMAN.—I understand it to be the feeling of the committee that they should not be dropped.

Mr. HODGINS.—I desire to repeat again that that is Mr. Parent's suggestion, not mine.

Mr. LENNOX.—We will allow nothing to be dropped.

The CHAIRMAN.—The question is whether we are ready to grant Mr. Hodgins, K.C., time to consult with his client?

Mr. BARKER.—And to prefer charges.

The CHAIRMAN.—And to bring a precis of charges which have been preferred in the newspapers.

Mr. CARVELL.—Reserving to the committee the right to accept the charges as he brings them.

The CHAIRMAN.—To accept or reject them.

Mr. PARENT.—Does Mr. Hodgins intend to retain his attorney here during the whole investigation?

The CHAIRMAN.—Mr. Hodgins, are you going to act for Major Hodgins?

Mr. MACDONALD (Pictou).—Before we go into that question let us decide what time should be allowed to Mr. Hodgins. Why should he not hand to the clerk on Monday a statement of what he desires to deal with, and then we can meet on Tuesday to take evidence.

Mr. BARKER.—Whether you fix Monday or Tuesday is a question I am not going to discuss. But after we have got these charges there is no use our meeting the next day to take evidence, because it will be absolutely impossible to do so without the

production of papers upon which the witnesses will be examined. I do not know how long the commissioners will take to produce every document in their possession that relates to the charges which have been referred to us. We shall also require the officials of the Grand Trunk Pacific Railway Company, I take it.

Mr. MACDONALD (Pictou).—I do not see that we have any control over that.

Mr. BARKER.—We can subpœna them.

Mr. MACDONALD (Pictou).—That is another thing.

Mr. BARKER.—From what we see we will require, in order to understand these charges, not only the progress estimate and the reports made from time to time to the commission——

Mr. MACDONALD (Picton).—We cannot tell what we will require. It is better not to be too specific.

Mr. BARKER.—I am talking of Mr. Parent's charges that he specified himself. To go into the questions that Mr. Parent says are comprised in the charges and which we will have to investigate, as he himself says, whether Major Hodgins specifies them or not it will be absolutely essential——

Mr. MACDONALD (Pictou).—Well, now——

Mr. BARKER.—One moment. It will be absolutely essential before examining witnesses that we shall have here the papers upon which those witnesses are to be questioned. So I would like to know if there is anybody here who can tell us when the commission will be prepared to produce those papers. They will want to see the charges on Monday or Tuesday, and then undertake to get the papers. How soon can they be produced?

Mr. MACDONALD (Pictou).—I hardly follow my friend, Mr. Barker, in his observations. I apprehend this committee is here to investigate something that Major Hodgins has got to say about the Transcontinental Commission. I apprehend that Major Hodgins has got to prove what he said or take it back. That is the usual way when men make charges.

Mr. BARKER.—Yes.

Mr. MACDONALD (Pictou).—I apprehend further that the proposition made by Mr. Barker is that the commission should hand over anything and everything to Major Hodgins right off the bat.

Mr. BARKER.—I never said that.

Mr. MACDONALD (Pictou).—That is practically what you said.

Mr. BARKER.—I said the commission should produce the papers to us here.

Mr. MACDONALD (Pictou).—And I say that if Major Hodgins makes charges he must prove them. He cannot come to this committee and hunt around to find justification for statements which he has made.

Mr. BARKER.—He is going to put in his charges before he sees the papers.

Mr. MACDONALD (Pictou).—Major Hodgins on April 16, when he made certain charges in the Victoria 'Colonist,' either had evidence to prove those charges or he had not, and if he did not have the evidence he had no business to make the charges.

Mr. BARKER.—That is ridiculous.

Mr. MACDONALD (Pictou).—I say that a man has no right to make a charge against a public man in this country——

Mr. LENNOX.—A man can always make a charge which he has good reason to believe or which he knows that he can prove.

Mr. MACDONALD (Pictou).—Do not interrupt me, please. What I was going to say in regard to that subject is this: The onus of proceeding in this inquiry and of proving the case is on Major Hodgins and his counsel, and when they start in to prove their case I assume this committee will direct the production, as we proceed, of any matters which they indicate are necessary for them to prove their charges. But we would not be doing our duty as a tribunal respecting either the character or position of any public man against whom any charge is made unless we put the onus

of the proceedings in regard to these charges, which is the primary object of this committee, upon the gentleman who made them.

Mr. LENNOX.—Mr. Macdonald will agree to this, I am sure: that if Major Hodgins happens to know of a certain fact, or has reasonable ground to believe a certain fact, and he is giving his evidence and we ask him, 'Where is the evidence of that?' and he says 'The evidence is in the possession of the commissioners'——

Mr. MACDONALD (Pictou).—We will deal with that when it comes.

Mr. LENNOX.—That evidence must be produced. That will verify or contradict what he says. And then, as Mr. Barker says, we require to have certain documents which we can at this time anticipate will necessarily have to be produced, and if the papers are brought here now there will be no delay. As we proceed we may find that other documents will be necessary, but at present we know of the classification and the progress estimates that have been sent in during the time that Major Hodgins was in charge and some of which he alleges were not correct. Those ought to be brought here in the first instance, because we will need them of necessity. Other documents, of course, will be required later on, but any documents to which he necessarily will have to refer should be brought here now.

Mr. MACDONALD (Pictou)—We will see when he wants to refer to them.

Mr. LENNOX.—It is only a question of delay or otherwise.

The CHAIRMAN.—I do not think we ought to produce these documents before we know what charges Major Hodgins will prefer or withdraw.

Mr. BARKER.—I do not dispute that, but we cannot expect to go on next day because we may not have the papers.

Mr. CARVELL.—Had we not better find out when Major Hodgins will be able to lay his charges ?

Mr. HODGINS.—I have mentioned either Monday or Tuesday.

Mr. CARVELL.—Could you not do so on Monday ?

Mr. HODGINS.—I am prepared to take the day the committee decides.

Mr. CARVELL.—I want to give you all reasonable time.

Mr. HODGINS.—I will bring them on Monday.

Mr. CARVELL.—By 6 o'clock on Monday afternoon.

Mr. HODGINS.—Certainly.

Mr. CARVELL.—Let it be understood that by 6 o'clock on Monday afternoon those charges will be here.

The CHAIRMAN.—Before the committee ?

Mr. CARVELL.—In the possession of the clerk.

Mr. HODGINS.—I want to make a reference to what Mr. Macdonald said. I am speaking to lawyers and you will appreciate what I say. The facts which prove what Major Hodgins alleges are not in his possession but are to be found in the files of the Transcontinental Railway Commission and the Grand Trunk Pacific Railway Company.

The CHAIRMAN.—We can get them if necessary.

Mr. HODGINS.—There are very serious omissions in the files brought down to parliament. All the papers connected with this matter are not on the files ; they are in the office of the Transcontinental Commission or the office of the railway company. Supposing Major Hodgins were put on the stand and shown a charge and asked 'Is that true' ? He says, 'yes.' 'How do you prove it ? 'I want those papers' ? Are those papers not necessary for the proving of that charge ?

Mr. MACDONALD (Pictou)—If they are in existence we will have them when that time comes, but you are too good a lawyer not to know that when a man makes a charge of any kind he ought to know what he is talking about. When he comes before a parliamentary committee afterwards he ought to be able to tell that committee what he knew at the time he made that charge.

Mr. HODGINS.—He is prepared to do that.

Mr. MACDONALD (Pictou)—And as a matter of fact if he wants to summon wit-

nesses or to get documents in the control of the committee, no one here will object to that.

Mr. CARVELL.—Mr. Hodgins is also too good a lawyer to state that he will put Major Hodgins on the stand and say to him 'Here is a letter which you have written to the 'Colonist.' Is that true'? No committee could allow Major Hodgins to say whether that was true or not. He would have to come and tell us what he knows himself. I do not think you will have any difficulty with this committee ; they will give you all the opportunity you want to substantiate the case.

Mr. HODGINS.—Do you suppose that any witness should be put in the box and denied access to the papers which would bear out the evidence he is giving ?

Mr. MACDONALD (Pictou).—He knew enough to write a letter to the press and make charges against people and he ought to be able to prove his charges.

Mr. BARKER.—He wants the documents to prove what he says.

Mr. CARVELL.—There are practically three or four branches to the charges contained in this letter. We are discussing entirely the question of classification which to my mind is a very unimportant part of the matter because that has to be settled latter on by arbitration. To my mind the point in this charge is that Major Hodgins claims he was dismissed from the service of the Transcontinental Commission because he would not classify as the commissioner wanted him to do. He does not require documents in the possession of the commissioners to specify that. He can say whether it is true or not.

Mr. HODGINS.—Pardon me, he corrected those estimates in his own handwriting, and they are in the possession of the commission.

Mr. MACDONALD (Pictou).—Let him say so later on and he will get them.

Mr. HODGINS.—I am asking the committee to make that order now.

Mr. LENNOX.—After Monday, what then ?

Mr. CARVELL.—I would say sit on Tuesday.

Mr. BARKER.—You will have to meet and adjourn again to take evidence.

Mr. MACDONALD (Pictou).—I do not hesitate to say, and I think the committee will agree with me, that Major Hodgins having undertaken to write a letter to the public press in which he said the reason of his dismissal was not on account of any papers he wanted to see, but because the commissioners ordered him to do certain things which he would not do out which he had verbal instructions from the commissioners to do, the first duty of this committee when it meets on Tuesday is to summon that gentleman to the witness stand and for him to state on his oath how much he knows or how much he did know on April 16, when he wrote that letter. That, in my judgment, is the first duty of the committee. Then after that we will go on and investigate the charges and submit the fullest evidence.

Mr. LENNOX.—I do not see any objection to our meeting on Tuesday. We will have to meet promptly and frequently and we will have to decide what is the proper course to pursue. I think myself that if some of the papers are produced on Tuesday it will facilitate the matter very much. Then we can see what we can do.

Mr. MACDONALD (Pictou).—I do not hesitate to say, as far as I am concerned, that I think we ought to pass a resolution notifying Major Hodgins that having submitted his statement in writing he should come here and give evidence on oath on Tuesday morning.

The CHAIRMAN.—The evidence may not be long. He will be asked whether he believed that which he wrote to be true. If he says 'yes,' or if he says 'this and that I will withdraw,' the committee will be better informed. If he says 'I can prove so and so if I had the document.' It will then be for the committee to say what action should be taken.

Mr. BARKER.—I have no objection to that, but I do not want you to assume from the beginning that he has to prove everything without reference to the papers.

Mr. HODGINS.—Then let me make a request if you have definitely decided on that

course of action. If it is merely of Major Hodgins being asked 'Do you adhere to what you said,' and then adjourning for the production of documents——

Mr. MACDONALD (Pictou).—A good many other things will be asked.

Mr. HODGINS.—Do I understand the committee will not require the documents to be here until after the examination of Major Hodgins has been commenced?

Mr. CARVELL.—That would be my view of it.

Mr. MACDONALD (Pictou).—Major Hodgins will be before the committee all the time.

Mr. BARKER.—I do not agree with it.

Mr. CARVELL.—This procedure should, as far as possible, be along the lines of a court of law. The plaintiff in the case goes on the stand and tells what he knows subject to cross-examination. He makes his charges and this committee or the counsel for the commission, if later on this committee decides to have one, should have the right to cross-examine Major Hodgins. Then let him produce his witnesses, and if he wants documents from the commission it will be for this committee to say whether he can have them. As far as I am concerned I want everything thrown open to the public that possibly can be.

Mr. HODGINS.—Surely if you refer to the procedure in a court of law you must acknowledge that before the case comes on in court all parties have had an opportunity to see the documents and they are there on hand for reference.

Mr. CARVELL.—In some cases they are, and in some they are not.

Mr. HODGINS.—If the committee prevents us from obtaining access to the documents I think it will be extremely unfair to Major Hodgins. All I want is that the documents should be produced and in the custody of the committee, that we should have access to them and see them; we should be able to know what they contain.

The CHAIRMAN.—Before we examine Major Hodgins?

Mr. HODGINS.—Yes. Pardon me a moment. These are documents that have passed through Major Hodgins' hands, the chief engineer's hands and the commissioners' hands, and we desire to see them again.

The CHAIRMAN.—As far as I am concerned I am certainly of opinion we ought to have Major Hodgins on the stand so that we might ask him these questions, and then if you want documents we will give all the latitude possible. It is a very serious, a very important question and we will give you all the latitude possible.

Mr. HODGINS.—I am looking at it from a totally different point of view, and I would rather get the preliminaries settled.

The CHAIRMAN.—The committee will settle that point and it is settled now. You said, Mr. Parent, that you wanted to be represented by counsel?

Mr. PARENT.—The accusation, as far as we are concerned, is that there is fraud at the bottom of the whole thing. The newspapers and the charges which are before you contain that accusation. We are accused not of having done the right thing, but of having committed fraud. Everything referring to that we would like to have investigated and that as rapidly as possible.

The CHAIRMAN.—Do you wish to be represented by counsel?

Mr. PARENT.—I want the committee to say.

The CHAIRMAN.—Just as you please about that.

Mr. PARENT.—If we have no lawyer there should be none on the other side. If the other side are allowed a lawyer we should be granted the same privilege.

Mr. MACDONALD (Pictou).—It must not be forgotten that the way the commission regards these charges is this: There is a question as to whether the classification by the engineers of the commission was correct. That is a matter which under the agreement between the government and the Grand Trunk Pacific Railway Company must be determined by an arbitration board to be selected under the contract. The gravamen of the charge, however, is this: that these engineers made a wrong classification under the direction of the commissioners and at their request, and that Major Hodgins was dismissed because he would not do that. That is what he says. Those

are the things in regard to which, I think, Major Hodgins should tell us immediately what he knows.

Mr. CARVELL.—And further, he was sent to Quebec to get some object lessons, and he refused to carry out the lessons which he took there.

Mr. MACDONALD (Pictou).—That is the point.

The CHAIRMAN.—Now, is it the wish of the commission to adjourn until Tuesday morning at 10.30?

Mr. HODGINS.—There is the matter of counsel.

Mr. CARVELL.—The chairman stated the commission could suit themselves.

Mr. HODGINS.—I understand that. I mean on behalf of Major Hodgins?

The CHAIRMAN.—He has got the right to be represented by counsel.

Mr. HODGINS.—My application is that in a matter of this kind, in view of its nature and of its importance, the committee should assign counsel to Major Hodgins. I presume that they will assign counsel to the commission as well. I make the request in order to facilitate the bringing out of the matters which are involved in these charges. The commission, according to the chairman, may or may not be represented; just as they wish. They probably will. But I think Major Hodgins is certainly entitled to be represented by counsel, and I ask the committee to make such an order. There are precedents for it. I understand that in the McGreevy-Connolly case counsel was so appointed.

The CHAIRMAN.—Oh, no, that is a great mistake. Counsel was not appointed by the government but by private parties. At the last minute the government decided to pay the counsel so engaged, but they were not retained by the government. That is the great difference.

Mr. BARKER.—We do not propose to retain counsel. Mr. Hodgins, I take it, is asking that Major Hodgins should be allowed counsel, and the question is whether we will authorize that and recommend the government to pay the bill. That is all.

Mr. HODGINS.—Quite so. I understand, in fact I know, that in the Gamey commission the counsel not only represented those that had been attacked, but Mr. Gamey was aided by counsel in pressing his charges. The Hon. Mr. Blake, Mr. Ritchie and Mr. McPherson, who represented Mr. Gamey, were all paid by the government. The matter was considered to be one of public importance, and there is no doubt that this case stands in exactly the same position in that regard.

Mr. MACDONALD (Pictou).—In regard to importance?

Mr. HODGINS.—I think it would be a very great burden on Major Hodgins if he were compelled to retain counsel at his own expense.

Mr. MACDONALD (Pictou).—Do you find any precedents for parliament saying to a man who writes a letter to a newspaper about a public official, 'We will pay all the expenses of what you do?' I have heard of men rising in parliament and making charges and parliamentary commissions and royal commissions being appointed by parliament and at the request of members of the House, but I don't think there is any precedent for a case of this kind for any such reason.

Mr. HODGINS.—I understand this was not a commission asked for by Major Hodgins but a commission thrust upon him.

Mr. MACDONALD (Pictou).—I understand that Major Hodgins never asked for any commission.

Mr. HODGINS.—Quite so. The investigation for which he asked for was not granted.

Mr. MACDONALD (Pictou).—It does not appear in evidence in the documents before us that he made any request.

Mr. HODGINS.—All the documents are not before the committee. But in his memorandum Mr. Parent says: 'The commissioners would respectfully request that the whole matter be referred to and looked into by committee of the House, and that Major Hodgins be assigned to appear before the same to repeat his charges in a

specific manner in order to substantiate them if he can.' This committee was granted by parliament at the request of the Transcontinental Railway Commission to investigate the charges. Now, Major Hodgins is summoned to appear here, and he is given the right of counsel by the committee. He is asked to put in charges, and I think his request is a reasonable one: that he should be allowed to retain, at the expense of the government, counsel to represent him in repeating the charges and substantiating them. It is not a matter in which he is personally concerned, it is not a matter in which he personally gains or loses anything; it is a question of importance to the country if he proves his charges, and it is of equal importance, I suppose, if he does not.

Mr. CARVELL.—If you will refer to Major Hodgins' letter to the 'Colonist' you will find he is the man who practically lays the charges and demands an investigation because in one portion of his letter he says that if the increase in cost amounts to three or four million dollars it is time the public demanded some explanation from the government.

Mr. HODGINS.—Quite so

Mr. CARVELL.—It is that charge that he made which brought forth the letter from Mr. Parent.

Mr. BARKER.—The public have now ordered an investigation.

Mr. CARVELL.—So far as I am concerned, while I would not like to say at this moment that I would be opposed to Major Hodgins having counsel, or the government bearing the expense, it does seem to me that it is creating, or carrying out a very bad precedent. If such a precedent exists I think it is a very bad one. Major Hodgins was not asked to write this letter which was published in the Victoria 'Colonist.' He did it simply from his own standpoint or from the standpoint of friends, perhaps, who wished him to do so. It is possible that Major Hodgins may feel his position to be a hardship to some extent, and that he is in an unpleasant position; but he has himself to thank for it, nobody asked him to do it. In what I am going to say now I do not want to be considered as making any imputation against Major Hodgins or his counsel, but we all know it is late in the session and many of us have very important duties to perform both here and at home, and it seems to me that if we employ counsel on both sides then we will be here long after the apple blossoms are in bloom and possibly some months after that.

Mr. HODGINS.—Not if this counsel is employed, I know.

Mr. BARKER.—It ought to shorten the investigation by two-thirds.

Mr. HODGINS.—There are other things besides this to do in the world.

Mr. LENNOX.—What is proposed is to provide an instrument to enable us to find out whether certain imputations made against the management of this work are correct or not. It is of public importance and in the public interest, and such being the case we should aim at anything which will make more certain the question of whether these charges are well founded or not. I think counsel should be employed to to assist us in endeavouring to ascertain the bearing of the evidence that is brought before the committee, to analyse it and come to a right conclusion. I am not one of those who believe that competent counsel will prolong the investigation, and I think it is worth while for the committee to consider whether it would not be in the public interest to demonstrate that we are anxious to give Major Hodgins every facility to establish his charges.

Mr. MACDONALD (Pictou).—Certainly.

Mr. LENNOX.—We should consider whether it would not be right for the country to pay counsel. There might be the question of another counsel also for you to consider.

Mr. CARVELL.—What would you think ?

Mr. LENNOX.—I would offer no objection to the commission being represented by counsel, but they have the power to do that anyway and they can pay for counsel if they see fit. But a very prominent counsel, a man in whom we would all have faith-

to bring forward charges, and who would see that the public got justice in this matter is what we might want. That would be all right and I think I would see no objection to it.

Mr. CARVELL.—What do you think of the suggestion that we should have one counsel ?

Mr. BARKER.—That is not fair to Major Hodgins.

Mr. MACDONALD (Pictou).—In some instances counsel for a committee have been appointed to deal with the presentation of the case.

Mr. LENNOX.—That would be the second counsel that I spoke of.

Mr. MACDONALD (Pictou).—It think we might very well dispense with counsel for the commission and counsel for Major Hodgins and let such counsel for the committee act in the presentation of the facts. However, perhaps the best way would be to let that matter stand over until Tuesday. Personally I do not think there is any precedent for the request, and I would like to look into it first before expressing an opinion against it possibly. No harm can come from letting the matter stand.

Mr. LENNOX.—I don't think so. This is a matter we can only make a recommendation on in any case.

Mr. MACDONALD (Pictou).—Certainly it is a matter to some extent of precedent and authority.

Mr. LENNOX.—And we may look into the McGreevy-Connolly case also.

Mr. CARVELL.—I would not take it that the act of any one committee of this House would have a binding precedent up any other committee. It would be different if you could find some authority on parliamentary usage.

Mr. BARKER.—It is only a question of what is fair and reasonable, whether we would recommend to the House that it be allowed. We cannot do it ourselves.

Mr. MACDONALD (Pictou).—Then that matter will stand over until Tuesday.

Mr. HODGINS.—The matter of subpœnaing witnesses will stand over until Tuesday as well?

Mr. MACDONALD (Pictou).—I want to say as far as I am concerned that I propose to ask the chairman to direct Major Hodgins, when he comes on the stand on Tuesday, to tell us about these charges he makes against the commission; he does not need papers to prove them. Men cannot go around making serious charges against public men in any position in the country without coming down to business as quickly as they can. We want to know whether these men appointed by the government deliberately entered into a conspiracy to get over-classification for the contractors.

Mr. HODGINS.—You are generalizing there largely.

Mr. MACDONALD (Pictou).—I am dealing with what is in the record.

Mr. HODGINS.—You do not, I presume, speak by the record. Our desire is to get down to close quarters as rapidly as possible, and we are suggesting a way to do that.

Mr. CARVELL.—Your remarks apply to over-classification.

Mr. MACDONALD (Pictou).—Here is a statement by Major Hodgins: 'If Monsieur Poulin, the engineer appointed by Monsieur Parent to replace me on the western district, has allowed the introduction of classification similar to that in Quebec, this will account for an increase in the estimated cost of the line. If this increase amounts to three or four million dollars it is time the public demanded some explanation from the government.' That can be disposed of by the production of Poulin's estimate.

Mr. MACDONALD (Pictou).—I want to know what ground Major Hodgins had for making that statement, and I want to get it quickly.

Mr. LENNOX.—We anticipate that certain documents will be required, and we should have them here on Tuesday, so that if Major Hodgins, when put upon his oath, says 'I want to refer to certain documents in order to substantiate what I say,' the documents would be before the committee, not in the hands of Major Hodgins.

Mr MACDONALD (Pictou).—I presume the commission will have their counsel, and I would suggest that Mr. Hodgins, K.C., and who ever is counsel for the commission should confer about that.

Mr. LENNOX.—I think that Major Hodgins should furnish a minute of what documents he foresees that he will require.

Mr. MACDONALD (Pictou).—Or let his counsel confer with the counsel for the commission. The counsel on both sides can settle that without any difficulty.

Mr. PARENT.—Any documents which the committee orders will be here in the matter of half an hour.

Mr. HODGINS.—Yes, but there are some other documents that we want.

The CHAIRMAN.—Make your list of what you want, but I do not think we will allow any papers to come before the committee before we hear Major Hodgins.

Mr. BARKER.—Somebody else has got something to say about that.

The CHAIRMAN.—I am only one member of the committee, and that is my opinion, that is all.

Mr. HODGINS.—I wish to make it quite clear that I am entering a respectful protest against it. I think that in fairness to Major Hodgins when he is on the stand he should have the documents which he considers necessary to refer to.

The CHAIRMAN.—Certainly.

Mr. HODGINS.—And that the committee should have those here before Tuesday.

The CHAIRMAN.—I don't agree with that.

Mr. MACDONALD (Pictou).—I have indicated a course which I think ought to be satisfactory. You can confer with the counsel for the commission, whoever he may be, and explain to him what you want. If when you come on Tuesday you think it is unfair we will order production, at least I will be in favour of that.

Mr. BARKER.—That is all we want.

Mr. LENNOX.—That is a reasonable solution.

The committee adjourned until Tuesday morning at 10.30.

TUESDAY, May 12, 1908.

The committee met at 10.30 a.m., the chairman, Mr. Geoffrion, presiding.

The CHAIRMAN.—The Clerk has just handed me a copy of the charges which have been made by Major Hodgins before the committee. There seems to have been a misunderstanding as to the session of the committee this morning, and on that account Mr. Hodgins was given until this morning to submit his charges, which have just been deposited in my hands. I think everybody, the members of the Transcontinental Railway Commission, and the members of this committee, are entitled to have in their possession those charges before we commence the examination of witnesses; so I think it would perhaps be better to adjourn the examination of witnesses and the further proceedings of this committee until to-morrow morning. I would like to have the opinion of the committee on that matter.

Mr. BARKER.—Is it proposed to go on with the examination of witnesses without any papers?

The CHAIRMAN.—Well, as I understand it, during the examination of the witness there will probably be some questions which will have to be asked Major Hodgins, and that, when he says—at least that is according to my opinion—that before he can answer those questions he requires to see certain papers in order to enable him to make proof of his charges, and to give his evidence, then those papers are to be forthcoming.

Mr. BARKER.—I do not understand it that way ; I take it that any member of this committee should have those papers; I want to have them in order to examine the witness. I intend to try to do my duty here, and when either Major Hodgins, or any other man, is being examined, I intend to examine him effectively if possible, within the full scope of the reference, and it is absolutely impossible for any person

to know what he ought to ask the witness until the papers are here, so that we can cross-examine on them.

Mr. CARVELL.—To what papers do you refer?

Mr. BARKER.—I refer to every paper that relates, so far as Major Hodgins is concerned, to whatever items he has brought forward in his charges; beyond that, I want every paper that deals at all with his utterances, whether they are included in these charges or not. Those charges have not been read to us yet, but there was a great deal of discussion on the last day the committee met as to whether Major Hodgins would be at liberty to omit from his charges anything that appeared in his interview or elsewhere. We may want to see for ourselves how far the papers in the possession of the commission bear upon these other branches of his statements, as well as upon the particular matters contained in the charges made before us. In a matter of such tremendous importance to the people of Canada we ought not to enter upon the inquiry, or rather upon the examination of the man who has made such charges as Major Hodgins has made, without seeing the papers, which are the very basis of his charges. It seems to me that to do so would be an absurdity—unless we want to avoid the question.

Mr. CARVELL.—Probably Mr. Barker may have the advantage of some other members of the committee and may know the contents of these charges; I do not, and until I have an opportunity of reading them all over I would not feel like going on with the examination of witnesses.

Mr. BARKER.—I have not yet seen the charges either.

Mr. LENNOX.—I think it would be advisable to have them read now.

Mr. MACDONALD (Pictou).—What is the use of that, it is only a waste of time, because we, each one of us, want a copy, which we can read for ourselves.

Mr. LENNOX.—We want to economize time as much as we can, and that is why I am suggesting that the charges be read now. If this misunderstanding had not occurred we would have had these charges handed in yesterday and you and I would have had a copy now.

Mr. CARVELL.—I was going on to say that at a previous meeting in this committee there was some reference made by Major Hodgins to reports of Grand Trunk Pacific officers. I would like to know whether Mr. Barker would consider that we have any right, before any evidence is given, to order that those papers be brought here?

Mr. BARKER.—You mean with regard to these charges?

Mr. CARVELL.—Yes.

Mr. BARKER.—If they come within these charges, certainly; if they do we certainly should have not only the Grand Trunk Pacific Company's statements, but every paper we can get that will enable us to cross-examine the witnesses.

Mr. CARVELL.—Would you consider that a letter written by one Grand Trunk Pacific official to another would be binding upon this House, and that the letter ought to be brought here unless it was sworn to?

Mr. BARKER.—It would depend upon what it is.

Mr. CARVELL.—Then it would seem to me that the proper course is to have the witnesses sworn. Major Hodgins makes very, very serious charges against the Transcontinental Railway Commission; Major Hodgins has a perfect right to be sworn himself and to ask for the production of any witnesses in Canada; as far as I am concerned I don't care how many there are, or where they come from, I am agreeable that they should come here at the public expense and be sworn. If the production of papers is necessary to enable these witnesses to give their evidence I think then that it is time enough to decide that they should be produced.

Mr. BARKER.—The point I want to make is this, that it is not a question of Major Hodgins, it is a question for this committee whether they are to be possessed of the papers in order to enable the members of the committee to examine witnesses.

The CHAIRMAN.—The question presents itself in this way to me, that we have

here the statement of charges—what is contained in that statement we do not know, there may be a repudiation of some of the charges that we have heard. Major Hodgins may say, I repudiate certain of the charges; they were made in mistake.

Mr. HODGINS, K.C.—He does not say that.

The CHAIRMAN.—We do not know. Are we going to ask for papers until we know whether there are charges relating to those particular matters or not? The proper way of proceeding is to have Major Hodgins go into the box and to examine him, and as a preliminary to read these charges and give all the members of the committee time to become seized of the nature and scope of the charges made. Then we can proceed with the examination of Major Hodgins, and, as necessity arises, we can ask for the production of the papers he needs. I do not see how we can ask for the production of papers now when we do not know what the charges are, we do not know anything about them.

Mr. LENNOX.—I want to see the committee get to work, and that is the reason I take the attitude I do. I think the first thing for us to do is to ascertain what the charges are. We have nothing particular to do for the moment except that, and we can apply ourselves very usefully just now to finding out what those charges contain. But in reference to what the chairman says as to ordering papers to be produced before we know what Major Hodgins' charges are, we know, whatever attitude Major Hodgins may take, what has been referred to us by the House, that is perfectly evident. There are the statements contained in various papers laid on the table of the House, including Major Hodgins' letter to the public press. From our knowledge of that we know perfectly well, as a committee, that although we may not be able at present to define fully all the documents that we may require, we know that we will, necessarily, require certain documents. I would like to ask Mr. Hodgins if he refers to the documents that he knows, or that he anticipates, he will require, in the course of the examination, in this statement?

Mr. HODGINS, K.C.—I do, certainly.

Mr. LENNOX.—One reason why I wanted that statement of charges read was, that I propose before we part, so that we will be able to get some work done when we meet again to-morrow, if it is to-morrow we meet, to move that certain documents be placed in the hands of the clerk of the committee to-morrow, so that when we meet we will not be in just the same position as we are to-day, unable to do any work. Major Hodgins' counsel tells me there are certain documents which will serve his particular purpose for the present, and I have prepared a couple of motions which I propose to offer for the consideration of the committee, for the production of such documents as will be really required to-morrow. If those documents are produced we will probably be able to do some useful work to-morrow; if not we will be in the position that we will have to stop again until they are produced. I therefore, Mr. Chairman, suggest that as we have nothing else to do we may as well have the charges read.

Mr. MACDONALD.—It might be as well for everyone to understand how we happened to come here this morning. After the adjournment of the committee the other day Mr. Hodgins, K.C., came to me and asked if it would be possible for this committee to be further adjourned until Wednesday, as he expected to have a case to try in Toronto. I consulted personally with the members of the commission, or some members of the commission, and found that they were very, very reluctant to agree to the further adjournment. I intimated to Mr. Hodgins that, as far as I was concerned, I would offer no objection to the matter standing over until Wednesday. He was uncertain as to whether or not his engagements would require that he should have the matter stand over until Wednesday and he was to advise the clerk of the committee on that point. I left Ottawa, myself, on a business engagement for Montreal, with the assumption that the matter was not coming up until Wednesday, and I understand that members of the commission had the same view until late yesterday afternoon; they supposed this matter was not coming up until Wednesday. Immediately on ascertaining that Mr. Hodgins had changed his

plans and could come here to-day, I went to the clerk of the committee and pointed out to him that, personally, I had made engagements on the understanding that the committee was not to meet until Wednesday, and that I thought the committee should not meet until Wednesday in accordance with that arrangement. Mr. Hodgins, on being consulted about the matter, asked until noon to-day to file his charges. Personally, I made engagements on the assumption that this committee would simply meet formally this morning and adjourn until to-morrow. The members of the Transcontinental Railway Commission are not here; they were under the impression that nothing was to be done, of any kind, to-day, but that the further proceedings would stand over until to-morrow. For myself, I do not propose to take any step to-day that we would not take until the whole proceedings have begun regularly and formally and until the other side are here, and therefore, under all these circumstances, in the absence of the Transcontinental Commissioners and their counsel, the whole matter, in my opinion, should stand over until to-morrow morning. My honourable friend need not be afraid; he will have ample opportunity to move all the motions he wants for papers. And further, apart from any other question, Major Hodgins must be here and tell us what he knows about these charges. As far as the papers connected with classification are concerned no objection will be offered to their production. It would be unfair to the gentlemen against whom these charges are being preferred if we should proceed with the present meeting when it was clearly understood last night that it should stand over until Wednesday morning and when the commissioners of the Transcontinental Railway are under the assumption that Mr. Hodgins would not file his charges formally until 12 o'clock to-day.

Mr. Hodgins.—Perhaps I am responsible for the misundertsanding to a certain extent. I was not clear, in speaking to the members of the committee when I would be prepared to file the charges but I informed Mr. Todd, secretary of the committee, on Saturday morning that I would be prepared to do so on Monday.

Mr. Carvell.—Why were the charges not filed by 6 o'clock last evening?

Mr. Hodgins.—They were in my hands ready to file, but when I understood, for the first time, that the Transcontinental Railway Commission were under the impression that the meeting of the committee was not going on to-day I asked, as I was not quite satisfied with the arrangement of the charges, 'I suppose there is no hurry to put them in? I would like to get until noon to-day.'

Mr. Carvell.—Who did you ask?

Mr. Hodgins.—I asked Mr. Macdonald, Mr. Barker and Mr. Lennox.

Mr. Macdonald (Pictou).—Mr. Macdonald stated that he had no objection.

Mr. Hodgins.—Certainly. However, I did not take advantage of that.

Mr. Macdonald (Pictou).—The commission were so informed, and it would be unfair for the committee now to proceed with the hearing of charges against men who are under the impression that the meeting is not to go on this morning and that the charges are not to be filed until 12 o'clock.

Mr. Hodgins.—Till 12 o'clock?

Mr. Macdonald (Pictou).—Yes, that is what you said to me.

Mr. Hodgins.—I was afterwards advised, Mr. Macdonald, that that was not agreeable to the other members of the committee. I saw Mr. Carvell and he objected, consequently I felt bound to have the charges here at the opening of this meeting.

Mr. Carvell.—I take the ground that whatever is done by this committee had better be done by the committee in open court.

Mr. Hodgins.—It is a good rule.

Mr. Carvell.—If it is worth considering at all it is worth considering before the committee.

Mr. Barker.—I agree to that. Let me say as to my knowledge of what occurred, and I think I can speak for Mr. Lennox also. We never heard of any thought or intention of laying the matter over until Wednesday, until Mr. Todd, the clerk of the committee, came to us about half-past 5 o'clock yesterday and said that he was informed—

I think he said by Mr. Macdonald—that the Transcontinental Railway Commissioners could not attend to-day.

Mr. MACDONALD (Pictou).—I was also informed that.

Mr. BARKER.—I am only saying what Mr. Todd informed us—that the commissioners could not attend, that they were under the impression that the intention was to adjourn the meeting until Wednesday, and, therefore, they would not be present and the investigation could not go on. Under those circumstances, of course, we were willing to consent but we asked that the other members of the committee might be seen also so that there should be no mistake about it. We had nothing to do with the matter, directly or indirectly, except being told by Mr. Todd at half-past 5 yesterday that the meeting was not going on this morning.

Mr. CARVELL.—About 9 o'clock last evening Mr. Todd came to me and stated that there had been a proposition made that the meeting should go over until Wednesday. He also said that Major Hodgins had not filed his charges. I told Mr. Todd that I would be present at half-past 10 this morning in the expectation that Mr. Hodgins would file the charges according to the agreement. The charges have not been filed, and as far as I am concerned I am not prepared at this stage to go on with the investigation. I have not seen the charges and I do not know what they contain. Therefore, I do not see that we can very well proceed.

Mr. MACDONALD (Pictou).—My suggestion the other day was that counsel for Major Hodgins and counsel for the Transcontinental Commission should consult together and ascertain what papers were wanted, and then it would be for the committee to say whether they should, or should not, be furnished as the case may be. There will be ample opportunity afforded to bring all necessary papers here but I say, under the circumstances, that it would be unfair to proceed with the case in the absence of counsel for the Transcontinental Commission.

Mr. BARKER.—And I say that it is unfair to go on without having the papers before us.

Mr. LENNOX.—No counsel can object to the production of such papers as will enable us to properly pursue the investigation which has been referred to us. The documents connected with this case are public documents and have a right to them.

Mr. MACDONALD (Pictou).—Would it not be better to hear counsel upon the subject ?

Mr. LENNOX.—I do not think it is necessary to hear them on the point as to whether the documents we require shall be produced or not.

Mr. MACDONALD (Pictou).—I do not think we should go on without counsel for the commission being here. What harm will it do to adjourn until to-morrow ?

Mr. LENNOX.—It means delay and loss of time. The session is moving along and there should be no unnecessary delay that will prevent the prompt completion of our work.

Mr. MACDONALD (Pictou).—Well, I absolutely decline to go on with our meeting to-day under the circumstances.

Mr. BARKER.—I move that the charges be read.

Mr. MACDONALD (Pictou).—I move in amendment that the meeting be adjourned until to-morrow in view of the misunderstanding which has occurred, and that the whole matter stand over until that time.

The amendment declared carried on division.

Committee adjourned.

May 13, 1908.

The Committee met at 10.30 a.m.

Mr. BARKER.—At the last meeting it was suggested by Mr. Macdonald that copies of the charges should be sent to each member of the committee and to the commissioners, so, I suppose, we may take them as read now.

APPENDIX No. 5

The CHAIRMAN.—I understand the commission is represented by counsel this morning.

Mr. CHARLES MURPHY.—Yes, I have the honour to represent the commission.

The CHAIRMAN.—Have you anything, Mr. Murphy, to say about having the resumé of the charges accepted as read?

Mr. MACDONALD (Pictou).—Have you anything to say as to the charges as filed in relation to the interview and letter?

Mr. MURPHY.—At this stage, Mr. Chairman, I did not expect to be called upon to make any observations with regard to the charges as filed yesterday, but, in reference to your inquiry, I may say that we wish at this stage to reserve the right to object to certain matter contained in these charges and to certain paragraphs which as we submit are contrary to the agreement reached last week unanimously, I think, by the members of the committee, that the charges as originally contained in the letter of Major Hodgins and his interview published in the 'Daily Colonist' would not be enlarged or reduced. That agreement we submit has not been carried out in the charges as filed yesterday. As I have said, we do not intend to make any formal objection at this stage, but we wish now to have a note made that we reserve the right to object at the proper stage in the giving of evidence. Particularly I may point out that in the newspapers there was no mention of engineers McIntosh and Grant, and there is considerable space in the charge as filed to bring in both of these gentlemen.

The CHAIRMAN.—No objection to that, I suppose.

Mr. HODGINS, K.C.—Perhaps I should say in order to avoid misapprehension—Mr. Murphy speaks of the letter and interview that appeared in the 'Colonist.' What I said and what I still adhere to is that the letters in the 'Colonist' are the basis of the charges. I pointed out that portions of the interview were erroneous.

Mr. BARKER.—I think what occurred last week was this, not that Major Hodgins should not be permitted to reduce. Nothing was said on that subject. All that was said was that he should prepare his charges and submit them, but that would not deprive this committee from going into more than he has put in.

Mr. LENNOX.—The statement does not control the committee. What does control the committee is what has been referred to us from the House.

Mr. HODGINS, K.C.—I renew my application for the assignment of counsel at, of course, the expense of the government for Major Hodgins. I note that in the Transcontinental Act the commissioners are entitled to include in the cost of construction legal expenses. Consequently, they are entirely protected and have not out of their own pockets to pay the expenses of counsel. I think it would be unfair to Major Hodgins, he having been brought before the committee by order of committee appointed by the House for the investigation of this matter as a matter of public interest, that he should be expected to employ counsel and spend what time was necessary in developing and proving his charges.

The CHAIRMAN.—What is the pleasure of the committee about that question?

Mr. BARKER.—I take it, Mr. Chairman, that counsel appearing for Major Hodgins will assist our enquiry in developing it and will help to bring it out more clearly.

Mr. LENNOX.—I said all I need say the other day. I am in favour of that being done.

Mr. CARVELL.—It seems to me it would be establishing a very dangerous custom if every man who has been in the employ of the government of Canada, or of any commisison appointed by the government of Canada, chooses to make a series of charges against public officials and then come to a committee of this House and asks to be assigned counsel in order to help him out. The government did not ask Major Hodgins to submit these charges and I have no doubt that when he submitted these charges he had full responsibility of what he was doing. He must have done it for a purpose and according to the claim filed I would say he did it for the purpose of showing why he was dismissed. If a man deliberately puts himself in a position which may be unpleasant, I can see no reason why the country should go

to the expense, at least at this stage of the proceedings, of perhaps hundreds of thousands of dollars in order to enable this man to make political capital. Until something has been done further, my opinion at the present time is that this committee should not furnish counsel for the prosecutor.

Mr. MACDONALD.—I have given some thought to the consideration of this question and there are certain things it seems to me that must be taken into account in regard to the matter. First, Major Hodgins appears in the category of an official who has been dismissed from the service. At least, that is the position he takes himself. According to the principles which would guide a court in dealing with any complaint the charges of a gentleman in that position would naturally be viewed with suspicion and as being animated with some motive. I have looked into all the precedents I can find and I find there are no precedents which would warrant the committee in assigning counsel. In these committees the usual parliamentary practice is that where a party has a matter which he desires to be investigated he should place his material in the hands of a member of Parliament, and if he regards that material as being of sufficient importance to warrant him pledging his position in Parliament by making a charge on his own responsibility, he can do so. In cases of that kind, we find that committees have assigned counsel at the public expense. At the same time, while that is my present view, I am perfectly open to be convinced on the subject. I would suggest that at this stage the application should stand over for further consideration of the committee, and it may be that conditions may arise which would warrant me viewing the matter favourably. At this stage I cannot find any principles on which I can support it.

Mr. BARKER.—In order to make things more clear, I should like to point out that we are here not at the instance of Major Hodgins. Major Hodgins exercised his right as a citizen to place certain facts in the public press. He was liable to slander and anybody could attack him in the ordinary courts of the country. That was his position so far as he was personally concerned. But using Mr. Carvell's language, 'the other man' was not content. He makes a demand to Parliament that Major Hodgins should be brought before a committee of Parliament to explain and prove and make good his charges. Mr. Macdonald has spoken of the practice when charges are made in Parliament. Naturally Major Hodgins could not appear in Parliament. If he wanted the charges made in the House his only course would have been to induce some member to take them up, and what has been said by Mr. Macdonald would probably have followed. But here the person who invites an investigation is the chairman of the Transcontinental Commission, and Major Hodgins is brought here at the instance of Parliament to make good certain charges. Nobody can doubt the great importance of getting at the facts not merely as regards the character of the Chairman of the Commission and of the Commissioners, but as regards the public welfare, not only up to the present time, but as to the continuation of what is alleged to be going on. Nobody can doubt the great importance of this investigation to the country and nobody can question, I think, that it can be better investigated so far as Major Hodgins' side of the question is concerned by the assistance of counsel. I do not think we require precedents to justify this committee in submitting the question to Parliament and asking for authority to allow Major Hodgins counsel at the expense of the country.

The CHAIRMAN.—I am disposed to adopt the views of Mr. Macdonald and Mr. Carvell on that question. I think it would be a bad precedent. Mr. Hodgins, K.C., said the other day we had the precedent of the McGreevy charges. That was altogether different. In that inquiry the men who had made the charges had to retain their own counsel, and it was only when it was found after the inquiry had developed to be in the interests of the country that the government decided to pay the counsel, which had been retained by the private parties. So at this stage of the case I would not be in favour of granting the request of Mr. Hodgins. Later on, as I have said, and as Mr. Carvell has said, if it should be found to be in the interests of the country that

the inquiry has taken place then it would be for the committee to entertain the idea of paying the fees of Major Hodgins' counsel.

Mr. LENNOX.—I am not disposed to object to what the chairman has just said. That is, I think we can profitably have a little more information before we decide this question. I am strongly of opinion that counsel should be assigned, but I think the necessity will more fully appear as we proceed further. I am not indisposed to let the matter stand over for a few days. My own idea is that although the matter was initiated by Major Hodgins it has now passed beyond his control to a very large extent. He was by writing those letters the cause of bringing these matters before the public, but the Commission has taken it up and have become the aggressors in tht sense, and the country is paying the expense of the commission justifying themselves. I have no objection at all to that. I think that is perfectly right, but I think on the other hand that this is a question of protecting the people against a very large expenditure of public money, and it is my view that where a large amount of money is involved that we should have and the country should have the benefit of counsel assigned to Major Hodgins, so that there may be a thorough inquiry not merely into the specific charges in his letter but into all the questions referred to us by the House.

Mr. BARKER.—Then that stands.

The CHAIRMAN.—Yes.

Mr. BARKER.—Then I beg to move: 'That the Transcontinental Railway Commissioners be required to produce to this committee all papers and records in the custody or control of the said Commissioners relating to or affecting the matters referred to this committee.' That is distinctly within the order appointing us. The House gave us power to order the production of papers and records. Accordingly I move that.

The CHAIRMAN.—Have you anything to say, Mr. Macdonald or Mr. Carvell?

Mr. MACDONALD.—Has the Commission any objections to produce these?

Mr. MURPHY.—The motion as placed in your hands is in very general terms, and its scope is very wide. The Commission do not object to produce any papers that relate to the matters referred to this committee; but they submit that they ought not to be asked to produce papers that refer to matters which, although possibly raised by Major Hodgins, still are subjects of arbitration as between the Commission and the Grand Trunk Pacific. As to these matters the Commission do not think they ought to be required to produce papers.

Mr. BARKER.—I shall bring that up in another form.

Mr. CARVELL.—If Mr. Barker only wants an expression of the principle I would have no objection to his motion because I think that the Transcontinental should be compelled—in fact, I am certain they would be quite willing to produce what papers are necessary. But if it means what it says, then they would have to bring every document in the Transcontinental offices, and I object to that.

Mr. BARKER.—It says all papers affecting this question.

Mr. CARVELL.—Well, that means everything. Everything might affect this question. If it is only to establish the principle that the Transcontinental Commission shall produce any papers relating to this inquiry, I have no objection.

Mr. LENNOX.—What does it say?

Mr. BARKER.—It says, 'All papers in the custody or control of the Commissioners relating to or affecting the matters referred to this committee.'

Mr. CARVELL.—How are the Transcontinental Commission going to know what they are to produce?

Mr. BARKER.—Let them produce under the guidance of the chief engineer everything that he advises them does relate to this, and if we think there is anything more, we will point it out.

Mr. CARVELL.—With the reservation that the commissioners produce here only what they consider to be important, reserving the right to Mr. Barker or anybody else

to make a further application. But I want it to be distinctly understood that it does not mean that they have to turn out everything they have.

Mr. MACDONALD.—I assume that Mr. Hodgins has indicated in his memorandum the papers he wants.

Mr. LENNOX. We will deal with that later on. This is more general.

Mr. BARKER.—I presume they will bring these. We all know now that this inquiry is not going to be confined to Major Hodgins' specific charges and they may have papers relating to their own views.

Mr. MACDONALD.—The inquiry must be confined to what Major Hodgins alleges. We are not going to have an inquiry to satisfy curiosity.

Mr. LENNOX.—We are not going to have that, but we are going to have an inquiry into anything and everything referred to us by the House. Our instructions are to investigate the matters and charges referred to in those papers laid on the table of the House.

Mr. CARVELL.—You ought to specify what papers you want.

Mr. LENNOX.—We will state that as we go along.

Mr. BARKER.—If we think there is anything more that we want we will point it out.

Mr. MACDONALD.—I have no objection to the resolution on the understanding that it relates to matters properly before us.

The CHAIRMAN.—I think Mr. Barker should make it clear. The motion does not say what Mr. Macdonald and Mr. Carvell agree to.

Mr. BARKER.—It says they must be papers relating to matters referred to this committee.

Mr. MACDONALD.—I reserve my right to say what matters relate to this inquiry.

Mr. CARVELL.—The commissioners will bring what they consider to be papers affecting this case. Then it will be for the committee to say later on whether additional papers should be brought or not.

The CHAIRMAN.—Mr. Barker moves this resolution: (Reads.) 'That the Transcontinental Railway Commissioners be required to produce to this committee all papers and records in the custody or control of the said commissioners relating to or affecting the matters referred to this committee.' Is that agreed to ?

Carried.

Mr. BARKER.—I have another motion. 'That the First Minister, the Minister of Railways and Canals and the Minister of Finance, and any other ministers or departments, including the Auditor General, having papers or records in their custody or control relating to or affecting the matters referred to this committee be requested to produce the same before the committee.'

Mr. CARVELL.—I would agree to this resolution with the same reservation as in the former one, so far as the Auditor General is concerned, that he produce what may seem to him to affect the question, and if anything further is required we will deal with it as the question comes up.

Mr. BARKER.—That is necessarily a reservation. A man must judge for himself.

The CHAIRMAN.—Is it the pleasure of the committee to adopt this resolution?

Carried.

Mr. BARKER.—I have still another resolution. I move 'That a summons or subpœna be issued to the proper officers of the Grand Trunk Pacific Railway Company, requiring the company to produce to this committee all papers and records in the custody or control of the said company or of its officers relating to or affecting the subject matters referred to this committee, and requiring the officers or persons in charge of any or all such papers and records to appear therewith before this committee and give evidence in regard thereto.'

Mr. MACDONALD.—That is clearly a resolution that we should not pass. If Mr. Mann or Mr. Heaman whose names appear here wrote letters anything stated in those letters is not evidence. Mr. Barker knows that. Anyone of those engineers who are wanted will come here and tell us what they know on oath. I think, Mr. Chairman,

that the consideration of this resolution should stand over. It is about time for Major Hodgins to start in and prove his case.

Mr. BARKER.—I have no objection to its standing over in order that we may have an opportunity to consider it.

Mr. MACDONALD.—If any evidence is to be got from the Grand Trunk Pacific, it must be got on oath. We have no right to direct them to produce documents.

Mr. LENNOX.—I wish to move two specific resolutions, with regard to papers which will be necessary in connection with the evidence of Major Hodgins. The first is: 'That the Transcontinental Railway Commission and the government be requested to produce and have before this committee at its next sittings such of the memoranda, papers, writings and documents mentioned or referred to in the statement filed on behalf of Major Hodgins as are in their possession, custody or control.'

Mr. MACDONALD (Pictou).—Is not that covered by Mr. Barker's resolution ?

Mr. LENNOX.—No, Mr. Barker's resolution is more general. This resolution specifies that such papers or documents relating to Major Hodgins' evidence be produced at our next sitting.

Mr. CARVELL.—This refers solely to documents in the possession of the committee.

Mr. LENNOX.—Or the government.

Mr. MACDONALD (Pictou).—I do not see the difference between this resolution and the other one.

Mr. LENNOX.—We have it set forth in the statement by Major Hodgins that there are certain documents which he says he requires in order to give his evidence, and we therefore require that they should be in the hands of the commmittee. We should have them at the earliest moment. These documents will probably enable us to investigate the evidence he is to give.

Mr. MACDONALD (Pictou).—Are these documents part of the documents referred to in Mr. Barker's resolution ?

Mr. LENNOX.—Mr. Barker's resolution refers to everything required in the whole investigation. The documents I ask for now are documents we immediately require.

Mr. MACDONALD (Pictou).—That is no difference.

Mr. LENNOX.—It is a material difference.

Mr. MACDONALD (Pictou).—What is the use of beginning this inquiry by jockeying ?—A. You pass a general resolution requiring the commission to produce all the documents relating to this matter. Now you go and ask a second one. I suggested the other day that counsel for Major Hodgins should communicate to Mr. Murphy, who I understand is acting for the commission, what documents he wanted. If they do not produce them he can make a motion and I will support it to compel them. But I understand that Mr. Barker's resolution covers every document required.

Mr. LENNOX.—Mr. Baker's resolution is a resolution to ask the commission to prepare and bring to us all papers that we can possibly require in the course of the whole investigation.

Mr. MACDONALD (Pictou).—And what Major Hodgins may require.

Mr. LENNOX.—Major Hodgins was asked the other day to specify what documents he would require for the purpose of corroborating or substantiating his evidence. His own statement sets forth the documents he thinks he will require from the commission and from the Grand Trunk Pacific. When Mr. Barker's resolution was moved, it was recognized by Mr. Macdonald and Mr. Carvell that that was merely affirming the principle of the matter and of course it was given the commission an intimation to prepare and produce those documents, which might take a considerable time. But we want immediately for the purpose of proceeding with Major Hodgins' evidence these specific documents mentioned in his statement. I have moved that the Transcontinental Railway Commission and the government be requested to have before this committee at its next sitting such memoranda, papers, writings and documents as are mentioned in the statement filed by Major Hodgins, and as they may have in their custody or control. Major Hodgins says in his statement, paragraph 13, 'Major Hod-

gins requires for the proving of the above charges documentary evidence in the possession of the commission, of the Auditor General, and of the Grand Trunk Pacific Railway Company or it officials.' And then it goes on to say that those in the possession of the commission consist of the various progress estimates and progress profiles sent in monthly by the engineers in Districts 'F' and 'B,' and so on. Then it says that there are in the possession of the Grand Trunk Pacific certain documents, and it follows that up by mentioning some ten or twelve specific documents or may be more that he knows will be required. I may say in addition to this that as regards jockeying, I disclaim any idea of that kind, and I am sorry Mr. Macdonald has made use of that remark. I assume, and will assume, unless the evidence is strongly to the contrary, that every gentleman on this committee is endeavouring to the best of his knowledge and judgment to advance the interests of the public and to elucidate the matters referred to us. Now, Mr. Chairman, it is absolutely necessary in the interests of the public and the proper investigation of this matter that these documents should be produced. It is not at all in conflict but quite in harmony with the resolutions already passed. The resolution already passed is general and affirms the principle more than anything else. This resolution is specific.

Mr. CARVELL.—I would like to call attention to section 13 of the charges, in which it is said:—

'Major Hodgins requires for the proving of the above charges documentary evidence in the possession of the commission, of the Auditor General and of the Grand Trunk Pacific Railway Company or its officials. Those in the possession of the commission consist of the various progress estimates and progress profiles sent in monthly by the engineers in districts F and B; the reports by the division engineers to the district engineer, and by the district engineer to the chief engineer; all from January, 1907, to the present time and relating to districts F and B.'

And so on. Now, I think it would be unwise and unfair to press Mr. Lennox's resolution as it stands. The substance of Major Hodgins' charges are first that he was sent to Quebec in order to take lessons in classification, where they had no trouble with contractors. He went to Quebec, I do not know the place, but it was near La Toque. Now I cannot see any reason why the progress estimates and what papers are necessary at that particular place, as seen by Major Hodgins at that time should not be produced before the committee; but surely it would be the essence of nonsense to contend that we should pass the time going over all the progress estimates of the work in Quebec since that time, and especially since Major Hodgins was there in 1907. We ought to have all the papers regarding the place where Hodgins was employed, and I think that when Mr. Lennox considers this matter he will see that it will be much better to change his resolution and put it in such shape that we can vote for it consistently rather than vote it down. As it stands I will have to vote against it, and I do not want to do that, because I do not want anyone to be able to say that I am trying to balk the investigation when as a matter of fact I am anxious for a full investigation. I am willing to have every document brought here bearing on the charges.

Mr. LENNOX.—I am not sure that I understand what Mr. Carvell means. What part do you object to?

Mr. CARVELL.—According to statement No. 13, as I construe it, it means that you are asking the commissioners to bring here every progress estimate made on that particular work.

Mr. LENNOX.—Yes.

Mr. MACDONALD (Pictou).—(To Mr. Murphy). Have you any objection to producing all the documents required?

Mr. MURPHY.—No.

Mr. MACDONALD (Pictou).—The course that would be adopted by any court would be that counsel for presenting the case would call for a document, and it would be given to him. If he could not get it it would be in the court's hands to decide.

Mr. HODGINS.—That would not apply in Ontario at any rate. Before we go into court we have production of everything from the other side, and counsel are allowed to see them and know what is in them.

Mr. CARVELL.—I am not acquainted with the Ontario practice. Do you mean to say that you can call for all documents in the hands of the opposite party, even if not referred to in the pleadings?

Mr. HODGINS.—Yes.

Mr. MACDONALD (Pictou).—Under our practice you would have to go to a judge and give reasons satisfactory to the judge for seeing the papers. The answer to the point you raise is that if your contention is correct the committee should adjourn for one week, or some time at any rate, so that you can see these documents and have some time to study them.

Mr. HODGINS.—Undoubtedly.

Mr. MACDONALD (Pictou).—When your client, in his letter and interviews to the press, undertook to malign public men, including the commissioners and Sir Wilfrid Laurier, nearly a month ago, he did not have documents at all. I took the position at the opening of the inquiry that the first thing he should do was to go on the stand and say why he made those statements. The counsel for the commission have offered now to give you those documents as you go along and you can put your man into the box and let us begin the proceedings.

Mr. HODGINS.—The offer has just now been made. I happen at the present juncture to be the counsel for Major Hodgins and I am bound to present what I think is the fair view, and I hope the committee will give it attention. The gist and basis of the whole of the charges of over-classification. The proof of which appears in the documents in the hands of the commission and the Grand Trunk Pacific.

Mr. MACDONALD (Pictou).—What about the reflections upon the members of the commission and other public men? That is the material point. As to the other points you raise, what about the clause in the Grand Trunk Pacific agreement which says that all these matters be left to arbitration? I propose to insist upon you proceeding at once to show whether these charges are true or not.

Mr. HODGINS.—I suppose you will allow me to finish my statement?

Mr. MACDONALD (Pictou).—I do not want any dodging. I want to get to business.

Mr. BARKER.—That is not fair on the counsel.

Mr. HODGINS.—I do not think you seriously mean that as a reflection, Mr. Macdonald.

Mr. MACDONALD (Pictou).—We have been from day to day wasting time, and I sincerely do desire to get to work.

Mr. HODGINS.—The gist of these charges is not the dismissal of Major Hodgins. He has accepted the situation. He is out and he does not want further employment with the commission. He takes this stand upon over-classification and he wants you to investigate and give him his chance to prove. I say as his counsel, that it is not possible for me to prove it without producing the actual documents to demonstrate from the monthly returns sent in by resident and district engineers to the chief engineer and approved by the commission. In these will appear the sort of classification that is carried out. I contend that it is impossible for any resident engineer in charge of 250 miles of road to repeat from memory the data as to classification objection, &c., and to suggest that I shall be asked without having seen them, and have them produced only to-day, to go on and examine the witness, is something the committee should not ask me to do. I venture to say that no court in the land would say that if you cannot prove charges without data out of your own mouth, we will not allow you to produce the documents or papers.

Mr. MACDONALD.—No one proposes that. We want to be fair.

Mr. HODGINS.—We cannot proceed without these papers and without opportunity to read them and to point out whether they are erroneous in view of the evidence.

Mr. MACDONALD.—No one expects you to do that. What do you mean by saying that you cannot give evidence before you get the documents.

Mr. HODGINS.—If the committee chooses to put in the forefront Major Hodgins' dismissal and the reasons therefor, there is a certain amount of evidence as to which the documents are not so material. But I do not desire to begin my case without them. I treat the dismissal as a matter of very little importance, in fact, I feel so strongly on the other point that I would be content to rest my case upon that alone.

Mr. CARVELL.—We prefer to take up the whole case.

Mr. HODGINS.—If the committee directs me to go on with the questions affecting the dismissal and make that the opening of the investigation, perhaps that could be done. But I want, and I hope to put, in the forefront of the charges, the fact of over-classification.

Mr. CARVELL.—Pages 2, 3, 4 and 5 and part of 6 are the charges and consist of statements that there has been a change in classification in small matters ranging from $50 to $300 or $400. I assume by some engineer named McIntosh. Do you mean to contend that this committee should consider for one moment that we are going to discuss and come to a finding upon actions and doings of engineers on the road unless you can show that they did it on the orders of the commission, or unless it bears upon the commission? The gist of these charges in the first place is that Major Hodgins was dismissed because he would not classify as the commissioners wanted him to classify. We are not here to discuss what resident engineers might have done. If your contention is to direct attention entirely as to what classification may have been made by these engineers, I want to know what connection that has with the matter. I do not care about it unless they were acted upon by the commission. If there was anything wrong in this and you cannot bring it home to the commission, I submit that we have a right to hear it here.

Mr. HODGINS.—I do not understand that the arbitration is for the protection of the Grand Trunk Pacific solely. The point is whether money is going out on your engineers' certificates and whether three or four million dollars in the aggregate has been excessively spent that way.

Mr. CARVELL.—As I understand it you want this committee to say whether the resident and district engineers are properly classifying this work?

Mr. BARKER.—On the evidence; we are not going to judge except on the evidence.

The CHAIRMAN.—(To Mr. Hodgins). Do you not think that the proceedings could be shortened if you were to meet Mr. Murphy and try to come to an understanding on the papers which I understand they are willing to produce, and if the commissioners refuse to produce papers which the committee thinks is fair to produce, then we will make them. There is no possible reason, it seems to me, to refrain from putting Major Hodgins on the stand and commencing the investigation, and in the meantime you could agree with Mr. Murphy about the documents which will be necessary.

Mr. HODGINS.—With reference to the chairman's reasonable suggestion, I must say that I am responsible for Major Hodgins' case. I accept the onus and I only ask the committee to enable me to present my case in my own way. Give me the papers and a reasonable time, appoint the time yourself, and I will undertake to go on then and undertake to call Major Hodgins, and if you ask me to call him first I will do so.

The CHAIRMAN.—Do you mean to say that you cannot produce your evidence in any way without the papers?

Mr. HODGINS.—If I cannot show that there is over-classification it is idle for me to say that the commissioners knew of it. I have to prove its existence, and I intend to do so. What I suggest is that the committee enable me to have a reasonable time to go over the papers and when I come again, if I have the papers I want, I will go on from day to day.

Mr. MACDONALD (Pictou).—I find in charge two the following: 'The root of all

the trouble between the commissioners and Major Hodgins is over-classification, and the commissioners wanted him to change his ideas as to classification based on a good many years' experience on construction to the classification that is allowed to the contractors in Quebec (under the head of "common excavation," loose rock and "solid rock.') This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on April 24, 1908, and exceeds that recomended by the chief engineer in his letter to the commissioners dated September 24, 1907.') There is a direct imputation in Major Hodgins' charges on Sir Wilfrid Laurier, Premier of this country, which as a member of the committee I intend to hear what Hodgins has to say about before we go into a long preamble. Then again there is this statement: 'Major Hodgins was removed for other reasons, and that no investigation was allowed and that his opinion and the opinion of the next senior engineer on the district were smothered.' I think these are grave insinuations. I think they should at once be dealt with. I am willing to give you all the material that you want immediately on that charge. I do not think that Major Hodgins has any right to make such insinuations regarding public men of this country, more particularly as I understand that he did not ask Sir Wilfrid for an investigation at all, unless he is ready to say why he made them.

Mr. HODGINS.—I entirely disclaim any desire to make political capital, and unless you force me to bring it in I shall make no political charge. If you force me to do so I shall then have to decide. I have not made it an issue and I do not propose to make it an issue.

Mr. MACDONALD.—I have read from the charges including quotations from a letter of Hodgins.

Mr. HODGINS.—Exactly. Of course it is in the letter, but if it is insisted on making it a political matter I shall have to consider it.

Mr. MACDONALD.—Do you think it fair and honourable to take the position that you are going to take apparently, that you will not withdraw the charges and that you are willing to let the imputation go abroad that Sir Wilfrid Laurier would not give Hodgins a hearing?

Mr. HODGINS.—I understood from you that no charges were to be dropped.

Mr. CARVELL.—Will you undertake that Major Hodgins will withdraw that?

Mr. BARKER.—Is it in the charge?

Mr. CARVELL.—Yes.

Mr. HODGINS.—I do object to being asked at this moment and this stage, as to any of the charges in the letter, and as to whether I, as his counsel, will withdraw them or not. I am prepared to take the responsibility of conducting the case and of conducting it in my own way. I have indicated my views. I am more concerned for the bona fides and good faith of charges made by a relative of mine in this matter, and am anxious that he have the fullest opportunity to prove them.

Mr. CARVELL.—Do you want to drop everything except classification?

Mr. HODGINS.—I am perfectly willing to stand or fall on that.

Mr. CARVELL.—Are you prepared to withdraw the other charges and announce them false?

Mr. HODGINS.—No.

Mr. CARVELL.—Then we had better investigate the whole thing.

Mr. HODGINS.—The question of whether six or seven thousand dollars of classification was wrong is a small part of the inquiry here as compared with the charge of bad faith and fraud on a part of one man or the commissioners. The total is not the small sum named though but something we claim between two and four million dollars.

Mr. LENNOX.—Mr. Carvell has assumed that this is a mere matter of the position that Major Hodgins occupied, and possibly a matter of the classification of six or

seven thousand dollars of material. It is nothing of the kind; it is a matter of improper classification on the road generally.

Mr. CARVELL.—With the knowledge and consent of the commissioners.

Mr. LENNOX.—It is not a matter with or without the knowledge of the commissioners. What is referred to us is to ascertain whether improper classification has been adopted on the Transcontinental Railway. It is a matter of whether the commission were guilty of improper conduct or not. The question, I repeat, is whether there was improper classification, and the position of Major Hodgins is a matter of indifference. The second question is whether the commissioners were aware or responsible for it, and I propose to keep the inquiry as broad as that, whatever attitude Mr. Hodgins may take.

The CHAIRMAN.—I think that the proposition I make to Mr. Hodgins is a fair one, to come to an understanding with Mr. Murphy, the counsel on the opposite side as to the papers to be produced. I know that generally between lawyers they can agree on these things pretty well. I think Mr. Murphy and Mr. Hodgins will agree to that, and that perhaps there will be very few papers, probably none, that they will refuse, and then we will be the judge as to ordering the production of papers if they are refused. I am of opinion, Mr. Hodgins, that your witness should be immediately put on the stand, and commence the investigation with any charge you like. We must insist on commencing. We are all making speeches and I find myself making one.

Mr. HODGINS.—I quite accept that. I want to allow the investigation to stand, however, until I have had an opportunity of conferring with Mr. Murphy.

The CHAIRMAN.—I think you should put Major Hodgins on the stand and commence the investigation.

Mr. HODGINS.—That is not my way of accepting the onus which is clearly put on me, and I do ask you to allow me to commence in my own way. I want to see the papers and when I come back I will be willing to accept your ruling as to whether Major Hodgins should go on the stand.

The CHAIRMAN.—Then there is nothing you can commence and elicit now?

Mr. HODGINS.—Nothing that I can commence and finish.

The CHAIRMAN.—I understand that your charges will be improper classification?

Mr. MACDONALD.—Do you say that he was wrongfully dismissed?

Mr. HODGINS.—I say that he was wrongfully dismissed but we are not going to trouble the country with that even if it was unjustifiable, he is not looking for recompense.

Mr. MACDONALD.—What do you say, Mr. Murphy, about the proposition?

Mr. MURPHY.—It seems to me that my learned friend is endeavouring to get the committee to take a lenient view of the conduct of his client. Undoubtedly when Major Hodgins wrote that letter to the 'Colonist' on the 16th of April last, either he knew that the assertions and aspersions that he cast upon the Premier, upon the chairman of the commission, and upon the other commissioners and upon certain engineers were true or were not true. If they were true he should be in a position to go ahead now without papers at all to prove those statements; if they were not true he should withdraw them. In any event I submit there should be no adjournment until Major Hodgins has been placed upon oath and made to tell what facts were in his knowledge or possession at the time he wrote that letter. He may have in his possession a number of the papers relating to this matter and if so there may be no necessity for the commission producing them. That can not be ascertained without Major Hodgins in the box. But I submit that it is most unfair and unjust that these adjournments take place day after day and that these statements, untrue statements we allege and can prove, made with regard to gentlemen in public life, should be allowed to go broadcast from day to day and no effort made to withdraw or prove them. If he proposes to go to that extent I would not offer serious objection, but it is quite evident from the position that he is taking now that this one small item which

he alleges was over-classification and which we will prove is fair and just classification is a very very insignificant part of the charges he makes.

Mr. HODGINS.—That is why we want the papers to prove the balance.

Mr. MURPHY. Exactly. That is where they are at. They are in a position where they want papers from the commission to try to prove charges which we contend have no foundation.

Mr. CARVELL.—Can you prove charges of personal misconduct on the part of Mr. Young?

Mr. BARKER.—We are not raising that question.

Mr. MURPHY.—It has been raised and spread from day to day. We are ready to go on with the investigation at once.

Mr. BARKER.—The commission have the papers and if they are all right why not produce the papers?

Mr. MACDONALD.—Mr. Murphy has said he is willing to produce the papers.

Mr. CARVELL.—There is another point. Mr. Murphy says that he is willing to put the papers at the disposal of Mr. Hodgins immediately and the question is whether the committee will proceed to investigate the aspersions made on the commissioners and other public men by Major Hodgins, or whether that must stand over until Mr. Hodgins has seen the papers that Mr. Murphy is to give him, and whether in the meantime we will go into the question of classification.

Mr. HODGINS.—I will go into the whole thing.

Mr. MACDONALD. As an honorable man I think Major Hodgins should be prepared to make good his aspersions or withdraw them. He must have had the material.

Mr. CARVELL.—On page 2 there are such items as station 3571, 150 yards of common excavation and 50 yards loose rock and so on over some six pages. Major Hodgins must have some knowledge of the statements he makes in regard to these.

Mr. BARKER.—That is all in the papers produced in the House.

Mr. CARVELL.—Then why can't he go on?

Mr. HODGINS.—I want those estimates showing details of these things and exactly what position on the line they are.

Mr. CARVELL.—Well, I think that Mr. Hodgins, K.C., should be able to take up the one hour and a quarter that we have left before this committee adjourns in an examination of Major Hodgins without the papers. Personal fraud almost is charged on the part of the commission, and I do not think that he will attempt seriously to make this committee understand that he cannot go on with something. Let us get away from this six or seven thousand dollars of wrong classification.

Mr. HODGINS.—I do not claim six or seven thousand dollars, I claim it runs into the millions.

Mr. CARVELL.—Put your witness on the stand and prove it.

Mr. HODGINS.—I want the papers.

Mr. MURPHY.—We have the papers with us now. In the meantime there should be some foundation laid showing why they think they are entitled to them.

Mr. MACDONALD (Pictou).—I submit that the chairman's suggestion should be carried out.

Mr. LENNOX.—If that is carried out by conference between the two counsel this motion can stand as a notice of motion to come up later on.

Mr. BARKER.—We have heard a great deal about procedure. The committee, by its majority, have decided that Major Hodgins must prove his case, and immediately the committee undertake to dictate how he shall prove his case. I never heard in my life of a judicial body, as I hope we are, undertaking to put such an imposition on a counsel, telling him that he must prove his case and that he must go on with certain portions of it. If there was the bare fact that one million dollars or two million dollars were being paid out now to contractors improperly that is more than they are entitled to under the contract, or that the commissioners are guilty of mere negligence or of a continuation of corruption—those are questions we have got to deal with and

settle here, but we should not dictate to Major Hodgins' counsel. We are not to tell him that he must take up this or that before what is after all the most important question for the people of Canada, namely whether millions are being spent contrary to the contract.

Mr. LENNOX.—Counsel must be allowed to take his own line.

Mr. MACDONALD (Pictou).—I do not think anybody is raising any question of that kind. It will not do for the committee to keep out of sight the fact that this matter arises out of certain charges by Major Hodgins in which he made reflections of the most severe character upon prominent public men, and that part has been referred to us. Now, his counsel will say whether he is going on to prove that or whether he is not. I notice that Mr. Barker does not indicate whether he thinks he can prove it or not.

Mr. BARKER.—Do you know whether he can or not?

Mr. CARVELL.—We know he cannot.

Mr. MACDONALD (Pictou).—All I say about that is that so far as I am concerned I am prepared to hear the evidence, but I think in common fairness, which should actuate any private individual, in a case of this kind, and more especially as the commission have asked to have that reflection removed—I think we would only be exercising common fairness in asking Major Hodgins to either prove his charges or remove them.

Mr. LENNOX.—I do not know that there is any question of immediate proof. It must be done as rapidly as circumstances will permit. But is always left to counsel to decide what line of action he should take. There is one point I should like to make clear. In a court of law before you get to trial each party has to put in an affidavit as to what documents relate to his case, and he must produce and deposit them in court for examination by the other parties so that before the day for trial arrives each party knows what the other side is relying on. Now, Major Hodgins, through his counsel, asks to-day that as his evidence largely depends upon documents many of which passed through his hands in the employment of the commission, he should have the opportunity of examining these documents before he is put on oath. I am very anxious to get on with this case. I have called attention to the necessity of having those documents here immediately.

Mr. MACDONALD (Pictou).—What about the other side? What about Mr. Murphy seeing the documents Mr. Hodgins has?

Mr. LENNOX.—I think that ought to be done.

Mr. HODGINS, K.C.—I am quite agreeable.

Mr. MACDONALD (Pictou).—That ought to be done on oath.

Mr. HODGINS, K.C.—And the commissioners on oath too.

Mr. CARVELL.—Major Hodgins says in his statement that the commissioners wanted him to change his ideas as to classification to the classification that is allowed to the contractors in Quebec. Now, that is just the whole thing. It is a direct charge against the commissioners. And then he goes on through the next four or five pages to give instances. Now, Mr. Hodgins does not require to have documents to prove whether the commissioners asked him to make false classifications or not. That is what Major Hodgins should tell us at once.

Mr. LENNOX.—But he also tells us that he requires the estimates to show improper classification.

The CHAIRMAN.—I think we had better proceed. I am of opinion, if it is agreeable to the committee, that Mr. Hodgins should put his witness on the stand so as to commence. We want to get acquainted with him. We can ask him how old he is and how long he was in the service of the commission.

Mr. HODGINS, K.C.—I will do that.

Mr. LENNOX.—We can get on with the formal parts.

Mr. HODGINS, K.C.—I have no objection to that. What I have said is with regard to having the right to conduct my own case.

APPENDIX No. 5

Major Hodgins, sworn.

Mr. Hodgins, K.C.—I understand the committee has called him to begin the investigation.

The Chairman.—We do not want to force you to go on with the charges until you think you have the papers to prove them.

By Mr. Hodgins, K.C :

Q. Major Hodgins, you are the person who wrote the letter to the 'Colonist' on April 16?—A. I am.

Q. You were in the employ of the Transcontinental Commission as district engineer, I believe ?—A. Yes.

Q. For how long?—A. About three years.

Q. Was that all on District F?—A. Entirely.

Q. The chairman has expressed some desire to become acquainted with you personally, and I should like myself to ask you what experience you have had. Your profession is that of civil engineeer, is it not?—A. Yes.

Q. You have been engaged in railway construction most of your life?—A. Most of my life.

Q. You began with what company?—A. The Canadian Pacific Railway.

Q. In what part of the country?—A. In Manitoba and British Columbia.

Q. Were you with them long on the prairie and mountain sections?—A. From 1882 until the road was finished. That would be about 1886, I think.

Q. You were engaged in construction work there?—A. Entirely.

Q. You were supervising construction work there?—A. Yes.

Q. Subsequent to that, where were you employed?—A. At the city engineer's, Toronto, for a short time. I again went away and worked on the short line through Maine with the Canadian Pacific Railway.

Q. For how long?—A. Three years.

Q. Were you engaged on construction work there ?—A. Altogether.

Q. You followed that, I understand, by moving to Windsor or near there?—A. Yes, I was transferred to another branch of the Canadian Pacific Railway, between Toronto and Windsor.

Q. On construction still?—A. Yes.

Q. Had you the same chief engineer all along?—A. No, various chief engineers.

Q. Who were the chief engineers?—A. Mr. James Ross was chief engineer on the Canadian Pacific Railway and afterwards Mr. Lumsden. Mr. W. T. Jennings was chief engineer on the branch from Toronto to Windsor.

Q. And you completed your work with them, remaining until the work was finished?—A. Practically.

Q. After that, you went to Mexico, I believe?—A. Yes.

Q. How long were you there?—A. About two years.

Q. Were you engaged on construction work there?—A. Yes.

Q. As engineer?—A. Yes.

Q. Then I think you remained at Nelson, in British Columbia, for some time practising your profession. When did you again take up railway work?—A. In South Africa.

Q. What position did you hold in South Africa?—A. I was in charge of construction work principally.

Q. During the war?—A. During the war and afterwards.

Q. For how many roads?—A. All the new roads in the colony of the Transvaal and also of the Orange Free State.

Q. All the new roads built during the war through the Transvaal and the Orange Free State?—A. Yes.

Q. Was any one over you in that work, or were you in charge?—A. I was on Sir Percy Girouard's staff. He was director of railways.

Q. After the war was over, what position did you occupy?—A. Superintending engineer.

Q. Of what?—A. Of construction and survey in both those colonies.

Q. And you remained how long in that position?—A. About three years.

Q. Then you returned to Canada, and were appointed to District F?—A. Yes.

Q. Now, would you consider, or do you say that the work which you have been through gives you the necessary qualification to act as district engineer in District F?—A. I hope so.

Q. Do you think so?—A. I do.

Q. And were you qualified to deal with the classifications under the contract?—A. I think so.

Q. Now, I just want very shortly to get an idea of the extent of the work in this district that you were on. What is the length of District F?—A. About 386 miles.

Q. And that extends from Winnipeg, does it?—A. From Winnipeg to a point near Lake Nepigon.

Q. Through what sort of country?—A. A portion of the prairie and the balance more or less heavy rock.

Q. How much prairie?—A. Sixty or seventy miles and the balance chiefly rock.

Q. Is it a fact that on this division the bulk of the work is in rock?—A. Yes.

Q. When you were first employed you had the position of district engineer, had you not?—A. Yes.

Q. You were employed on it some time before McArthur became contractor?—A. Yes.

Q. What work were you engaged on?—A. Surveys.

Q. How long did that take before McArthur's contract was let?—A. About a year, I think.

Q. Had it been entirely finished when the McArthur contract was let and finally revised?—A. Practically so. There was a small portion that had been rather hastily done in order to get the surveys and estimates in by January 15. I had promised to do so, and the commissioners were advertising for tenders.

Q. Did you receive any correspondence about that?—A. About which?

Q. Dealing with the running of the balance of the survey too rapidly?—A. Yes.

Q. I would like a copy of that letter. Have you the letter?—A. I left it in my desk at Kenora and the correspondence is there.

Q. It was official correspondence, was it?—A. Yes.

Mr. MURPHY.—What was the date?—A. About December or January.

Q. What year?

By Mr. Hodgins, K.C.:

Q. You know the date of the contract. That was about January, 1906, and the letter was previous to that.—A. It would be about December, 1905, I think.

Q. After the contract was let and during construction was that small end of which you have spoken completed so far as survey is concerned?—A. It was all completed. I put in a survey and estimate.

Q. Was it revised?—A. Yes after that.

Q. How long was that small section?—A. You are referring to revision. Revision takes place in a great many places, wherever we see we can improve the line we run new lines for the purpose of improving and reducing the cost.

Q. Did you succeed in so doing?—A. I did.

Q. To what extent?—A. I do not remember the exact figures, but it was, I think, over a million dollars.

Q. Was that by change of location?—A. Change of location and change of grade and improvements on the line generally.

Q. How many lines did you run in surveying?—A. In surveying those changes we would run various preliminary lines to see whether it was possible to make them and finally boil it down to the final location.

Q. How often had the work to be gone over in order to arrive at the final location? —A. You mean the whole thing?

Q. Yes?—A. We had the lines first explored. Then, the preliminary line is run. Then the first location is made and then a revised survey and final location. That is for the main lines. Of course, some of those improvements might not have had such elaborate work and revision would be done quickly.

Q. After the McArthur contract was let, was any of that work necessarily done in your office?—A. Yes, my work was principally in the office unless there was something going wrong on the line.

Q. In that case, what would you do?—A. I would go out and investigate.

Q. What was your original estimate upon which the commission asked tenders for the cost of the line?—A. Thirteen million dollars.

Q. That was the value on which McArthur's contract was based, and that was your estimate?—A. Yes.

Mr. Macdonald.—That is approximately, I suppose.

Mr. Hodgins, K.C.—Oh, yes.

Q. To what extent was the cost reduced by those changes which you were able to make throughout?—A. I am speaking entirely from memory. It was reduced, I think, to $11,660,000 odd dollars, not including track material. Track material would bring it up to $13,000,000 or $14,000,000.

Q. Would bring both up, would it not?—A. Yes.

Mr. Hodgins, K.C.—Well, you had better include it in both cases.

Witness.—McArthur has nothing to do with the supplying of the materials, so we get the two estimates separate.

By Mr. Carvell:

Q. Would that include the sleepers?—A. That would include sleepers.

By Mr. Hodgins, K.C.:

Q. Would both have included sleepers?—A. Yes. McArthur's contract was, as I say, estimated about eleven and three quarter millions, eleven millions six hundred and sixty thousand odd. I am not certain of these figures, I am just speaking from memory.

Q. That was the second estimate?—A. His thirteen million contract was reduced by these changes made by the engineers to say twelve millions.

Q. Now you made an answer a moment ago that track material would bring it up to a certain figure?—A. Yes, there would be the addition of the price of all the rails and track material, &c., not included in McArthur's contract.

Q. You are speaking of the cost of the road. I was speaking of the cost so far as McArthur is concerned?—A. Well, that would be thirteen millions reduced to say twelve millions.

Q. Is it possible to go over this division? Are there roads convenient, or how is it possible to get over the division?—A. On foot principally. There may be some roads now.

Q. Were there any when you were on?—A. You could get to one or two places on the road on the Canadian Pacific Railway.

Q. As district engineer, could you get over the road in any way except on foot? —A. On foot and canoe.

Q. What was your staff on that road on those 386 miles?—A. About 250 miles were under construction, and I think there were three location parties on the balance.

Q. Had you the supervision of these three location parties?—A. Yes. I had the supervision of everything, supplies, transport and everything else.

Q. Then, so far as the construction work went on under McArthur's contract, what was your staff?—A. I had a resident engineer about every ten miles.

Q. That would mean about twenty-five of them on the 250 miles?—A. Yes.

Q. Were they civil engineers?—A. Yes, they may not all have been members. They were young civil engineers.

Q. At all events they were appointed by the commission to do that work?—A. Yes. Of course, some of those resident engineers are very experienced men, but not all of them, and over them were division engineers.

Q. How many division engineers had you ?—A. About five.

Q. That would give them about fifty miles apiece ?—A. Forty or fifty miles.

Q. Then you, as district engineer, were over them?—A. Yes.

Q. From whom did you get your general instructions as district engineer?—A. From the chief engineer.

Q. That is Mr. Lumsden?—A. Yes.

Q. Who instructed the division and resident engineers?—A. I did, or my assistants.

Q. You had an assistant district engineer ?—A. Yes, Mr. J. A. Heaman.

Q. Is he in the employ of the Transcontinental Railway Commission now?—A. No.

Q. Is he a witness you desire to call in this investigation?—A. I do, very much.

Q. Where is he to be found?—A. At Kenora.

Q. Who were the division engineers, the five under you ?—A. Mr. Richaen, Mr McIntosh, Mr. A. G. McFarlane, Mr. M. C. McFarlane and Mr. McTaggart.

Q. When did McArthur take the contract?—A. I forget the exact date on which it was signed, but I think he began work in April. The first cutting he put in was in April or May.

Q. Was that in 1906?—A. Yes, he got his first estimate in May, 1906.

Q. Well now, speaking generally, what did his contract cover, the making of the right of way, the constructing of the right of way?—A. Well, it is a large contract. It covers a good deal and includes practically all construction so far as I can remember.

Q. I just want to get two or three headings?—A. It includes clearing, grading, bridges, culverts, everything more or less connected with construction.

Q. Rock cutting?—A. Rock cutting, prairie work, everything.

Mr. CARVELL.—Does that mean he furnished the whole work for bridges, or just the masonry work?—A. The masonry work.

By Mr. Hodgins:

Q. What work did he undertake first?—A. Clearing first.

Q. When you left the work in September, 1907, was the clearing done on that 250 miles?—A. Almost done.

Q. Not completed?—A. Oh, no.

Q. What percentage left still undone?—A. I do not remember the percentage, but I think the estimates would show. If I had it here I could refer to it, but I will make a guess. There was about 10 to 18 miles unfinished, certain portions untouched. I know I had an assistant engineer and I know it was impossible for him to let out his work because the clearing had not been done.

Q. Do you remember when going over or examining the contract whether he was obliged to clear to a distance on each side of the right of way?—A. Yes, 100 feet.

Q. When you say almost finished, except 18 to 20 miles, do you mean to the extent of 100 feet on the right of way?—A. Not altogether, there was a slash in some places.

By Mr. Carvell:

Q. Do you mean 50 feet on each side of the centre of the line or 100 feet?—A. 50 feet except at stations, where it was a little wider.

APPENDIX No. 5

By Mr. Hodgins:

Q. When you left was the construction work going on on the whole of the 250 miles?—A. Well, it was under way, but every cut was not opened up.

Q. Were there any miles or sections of any kind on which no work had been done?—A. Yes; some untouched.

Q. To what extent had the work been entirely untouched?—A. That is rather a hard question.

Q. Roughly speaking?—A. I could not give you an estimate in miles from memory. It is shown on the progress profiles.

Q. What do you mean by that?—A. The monthly profiles show the amount of work that had been excavated.

Q. Do you mind explaining what they are?—A. A section of the line, and each month the amount of work that has been completed is marked off in various coloured paints so that you can see exactly how much is done and how much is untouched.

Q. To be done?—A. Yes, to be done.

Mr. Hodgins (to Mr. Murphy).—I should like to have these progress profiles for June, 1907.

Q. (To Witness). Now, here is a list of men which I will put in showing what number of men McArthur had from the time until you left. Is this a correct statement?—A. Yes, that was made up in one of my offices.

EXHIBIT No. 1.

FORCE.	Men.
May, 1906	300
June	459
July	545
August	969
September	1,075
October	1,352
November	1,416·6
December	1,828
January, 1907	2,057·4
February	2,761·1
March	3,044·3
April	3,382·9
May	3,709·4
June	3,837·4
July	4,319·3
August	4,210·6
September	3,869·4
October	
November	
December	

Q. I see they are reduced to decimals in some cases?—A. Yes. It is the average men per month.

Q. For instance, in November 1,416 men. That is the average, I suppose?—A. Yes, the largest number of men employed was in July, 1907, when it was 4,319·3.

Q. What do you say as to the number of men that McArthur had on this work, considering its extent? Were they sufficient at any time?—A. He never had enough to finish on time.

Q. Would you just look over that list and tell me if in all those months was the number of men that ought to have been there to do the work within the time the contract required on the work?—A. No.

Q. Taking the largest number, 4,319 in July, 1907, was that a sufficient number of men to do the work?—A. No, but it was a vast improvement on what he had had there, and as far as I am able to judge was about all that McArthur could get.

Q. Yes, I understand that the prices of labour had gone up?—A. Yes, and men at that stage were very hard to get.

Q. Yes, of course. But whatever the reason the fact remains that there was not sufficient men?—A. No, there was not.

Q. What effect would that have on the work?—A. It would delay the progress, and make it more costly in some cases.

Q. More costly to whom?—A. The contractor. He had camps and equipments to supply more men, I imagine.

Q. He had camps and equipment but he did not have the men?—A. Yes, that is it.

By Mr. Carvell:

Q. How is this list made up?—A. From much fuller reports to the engineers, giving details of the cuttings; each engineer can tell at any time what a particular piece of work costs. He has timekeepers all over the line whom the commissioners pay for, and their duty is to keep time, to make reports and supply information, which enables the finding out what such and such a piece of work is costing. That list is just a boiling down of all those various timekeepers' reports.

By Mr. Hodgins:

Q. The timekeepers are stationed all along the line with the resident engineers?—A. Yes.

Q. They count the men, horses and teams?—A. Yes, and so on. That is reported to the divisional engineer and by him to the chief.

Q. They report to the divisional engineer and he to the chief?—A. They report to the resident engineer, who sends it on. I am not quite certain of the course by which it reaches the chief engineer.

Q. So that the chief engineer has exactly the detail of men working?—A. Yes, and every engineer on the work has also got a detail.

Q. What is the object of keeping that close tab on the number of men and horses?—A. To be able to say how the work is progressing, which is a very useful thing to know.

Q. Do you know whether any notice was given to the contractor in June, 1907, dealing with the number of men employed and the progress of the work?—A. I know there was a notice given in December, at least I think it was December, he was notified that if he did not put on more men and teams the chief engineer would.

By the Chairman:

Q. When did he say that?—A. I think it was December. He was also notified that if his estimate was not raised to half a million a month there would be trouble. I reported that at the rate of progress certain cuttings would take years to complete. I think it was December that there was a notice from the chief engineer.

Q. If you cannot speak of the date I will ask the commission to produce the notice?—A. I complained that he had not enough men on.

Mr. CARVELL.—It is not fair to ask him for dates if he has not got them. The papers perhaps will show.

Mr. HODGINS.—There were two notices. I would like to have them produced by the commission. One I can give the date of, was June 27, 1907. It is specifically mentioned in the charges.

Mr. MURPHY.—By whom given?

Mr. HODGINS.—By Mr. Lumsden to the contractor.

The WITNESS.—I gave McArthur a notice that if he did not put on more men I would take steps to put on more men and reported what I had done to the chief

engineer, and I believe he was either written to or some one told him the force would have to be increased. That was in the winter time.

By Mr. Hodgins:

Q. Probably December, 1906?—A. Yes, I think so.

Mr. Hodgins.—Well, I will put in these copies of letters.

EXHIBIT No. 2.

June 27, 1907.

CIRCULAR TO DISTRICT ENGINEERS.

A. E. Hodgins, Esq.,
District Engineer,
Kenora, Ont.

Dear Sir,—I beg to advise you that Mr. Gordon Grant has been appointed inspection engineer on this railway. His duties will be exclusively in the field, and he will report directly to me. He will be subject to my orders and instructions, and when called upon by him you will please furnish him with all the information he may require, and facilitate him in getting over the work. He will confer with you in regard to any suggestions he may have to make in regard to the work, but will issue no orders.

Yours truly,

HUGH D. LUMSDEN.

EXHIBIT No.2*a*.

June 27, 1907.

Gordon Grant, Esq.,
Inspecting Engineer.

Dear Sir,—Inclosed please find copy of a letter I have to-day sent to J. D. McArthur, contractor, District 'F.'

It is not to be expected that he can comply literally with this, but on going over the work it would be well if you would, at these heaviest portions, look into the best way of increasing the amount of work done, utilizing material where wanted without wasting.

This contract was let more than a year ago and, no doubt, the contractor will now be asking to waste from a number of cuttings which he should have had nearly completed by this time, but on which he has as yet done little, and where material for filling in is as scarce as it is on this portion of the contract, this should not be allowed at our expense.

Yours truly,

Enclos. (Signed) HUGH D. LUMSDEN.

EXHIBIT No. 2*b*.

June 27, 1907.

J. A. McArthur, Esq.,
Contractor, Winnipeg.

Dear Sir,—As the progress made by you on the work under your contract with the commissioners is not satisfactory, and the numbers of men, horses and plant are not sufficient for the completion of the work within a limited time, I beg to notify you that if by July 15 next you do not increase your force of men, horses and plant on the various cuttings mentioned hereafter, or take other means of increasing the work done per month on each of the cuttings to the multiple of 1,000 c.y. per month, as shown,

in brackets at each point; (2) meaning increasing work to 2,000 c. y. per month; (3) meaning increasing work to 3,000 c. y. per month, &c., &c., I shall be compelled to take action under clause 22 of your contract. Should you neglect before the date stated to increase your force and plant at the various points mentioned to insure the approximate yardage per month being moved at each of these points, I shall proceed to employ such additional men, horses and plant as I may think necessary.

The cuttings where the increases are required from the Winnipeg river westerly are as follows:—

Mileage 137 (3); 141½ (2); 142¾ (3); 144 (2); 144½ (2); 145¾ (2); 146¼ (4); 147 (3); 148½ (4); 148¼ (4); 148½ (3); 149¼ (2); 149½ (2); 150½ (3); 151¾ (2); 153¼ (3); 154½ (2); 155 (4); 156 (3); 156¾ (3); 158½ (2); 159½ (3); 161½ (3); 162½ (3); 163¾ (3); 165 (3); 166 (2); 166¾ (3); 168¼ (3).

The cuttings where the increases are required from the G.T.P. junction Mile O westerly to the Winnipeg river are as follows:—

Mileage 39 (4); 47 (2); 48½ (4); 50½ (2); 51½ (2); 52 (4); 53½ (2); 54¼ (2); 55 (4); 64¼ (4); 79¼ (2); 79¾ (2); 80½ (2); 82½ (2); 83¼ (3); 83½ (3); 86½ (2); 87 (3); 87½ (2); 88 (2); 90 (2); 93¼ (3); 99 (2); 99½ (2); 99¾ (2); 102¼ (3); 103½ (3); 105 (3); 109½ (4); 109¾ (2); 112½ (4); 113 (2); 113¾ (2); 124¼ (2); 124¾ (3); 126¼ (2); 128½ (2); 131½ (3); 133¼ (4).

In many of these cases where the material from cuttings has to be hauled from both ends the increased force is only required on the material to be hauled in one direction.

Trusting this will have your immediate attention, I remain,

Yours truly,

HUGH D. LUMSDEN.

By Mr. Hodgins:

Q. Now, I want you to look at that letter about the cuttings west from the Winnipeg river and those from Grand Trunk Pacific to Mile O, and tell me if you can say anything by simply looking at the numbers of miles or say whether you would want access to the profiles or estimates dealing with these miles, because I want to get at some idea as to the seriousness of the complaints?—A. This letter to the contractor was based entirely on a report sent to Lumsden. I called his attention to this, and went rather fully into it, telling him how many years it would take at the rate the contractor was going. He wrote then on June 27, according to this other letter. It must have been in May that I called attention to it, because I took it up with the commission and Mr. Lumsden in Winnipeg, and I think it was in May.

Q. Can you throw any light without seeing your letter on the seriousness of the want of men in this particular place with regard to the work?—A. I am relying altogether on my memory. It is rather a severe test. I cannot trace anything from that.

Q. I want to understand this expression, 'The contractor will now be asking to waste from the number of cuttings which he should have nearly completed by this time, but on which he has yet done little, and where material for filling in is as scarce as it is on this portion of the contract, this should not be allowed at our expense?'—A. I think I told Mr. Lumsden that the work had been delayed so long that the contractors were talking of wasting the material coming out of the cuts. At the same time allowing them to borrow more.

Q. What do you mean by wasting? Is that literally throwing on one side?—A. Yes. Blasting out rock and borrowing to make up the embankment.

Q. Is that more expensive?—A. Yes, you pay for two yards and only get one if a cut is wasted in order to get it done quickly. You certainly pay them for it, and if it is done deliberately against the engineer's orders they should not be paid for it, but it has to be proved to be a deliberate waste.

APPENDIX No. 5

Q. Taking that letter of 27th of June as to not being satisfied with the work of the contractor, had you in your office staff sufficient engineers' assistants?—A. Not in the office.

Q. I see that an assistant was appointed or recommended in July?—A. I had asked once or twice, I think, for a second assistant, another assistant district engineer, because the work at the time was more than we could handle. We were doing so much location and the change of location had all come at once. When we got the location plans completed we would have been less busy.

Q. Were the duties that you had to perform in your office of importance to the road?—A. I think so, certainly.

Q. Could they have been performed out on the road if you had been walking up and down the track daily—these duties that you were required to perform?—A. The most important things were to get as cheap a line as possible and to have as good a location as possible. More money is saved in that than walking up and down listening to the complaints of contractors that were without justification. Everything was going all right until, I think, the month of July, 1907, then the Grand Trunk inspector on the line began to object to the classification. I agreed with him.

Q. When the objection of the Grand Trunk Pacific engineer was made to what estimates did it refer?—A. I think it was the June estimates.

Q. You think it was the June estimates?—A. Perhaps it would be the July.

Q. We will come to that a little later on. I will file now this letter from C. A. Young, one of the commissioners.

EXHIBIT No. 3

COMMISSIONERS OF TRANSCONTINENTAL RAILWAY.

OTTAWA, ONT., June 4, 1907.

(Personal.)

A. E. HODGINS, Esq.,
District Engineer,
Kenora, Ont.

MY DEAR MAJOR,—I am in receipt of yours of the 1st instant, and note fully the bundle of reports that Mann has brought up concerning the appointment of an inspector. The position of inspector was one that I had been working on for a long time; I realized that, both at the head office and the district offices, there was so much office work to be done when construction was going on that it made it impossible for the engineering staff we had to devote the time that they should devote to going over the work. Finally we decided to appoint a man whose duty it would be to remain on the work constantly and not have any office work whatever. I may tell you privately that in the selection of a man for this work, it was considered by some of the board that we should have a high class and high priced man, and Mr. Barclay (who no doubt you know) was offered the position, but he did not consider the remuneration sufficient, and declined. It was never offered to any of our district engineers, for the reason we did not wish to disturb them in their present positions; and in looking around, Mr. Grant—who was represented as a very good man—was suggested; I think the suggestion came, in the first place, from Doucet, and Grant was appointed.

The appointment of this man cannot possibly be considered a reflection on our district engineers. The position was not offered to Doucet, Hoare or any one else, outside of Barclay. It is certainly promotion for Grant, and might have the appearance of his being promoted over your head, from a minor position, but, as stated, we did not wish to disturb the district engineers in their positions, and we preferred

taking a man, if at all suitable, already in our employ rather than bring in an outsider. The question of his being a western or an eastern man, of course, cuts no figure; as a matter of fact, Grant was brought from British Columbia to take the position in Quebec in the first place.

As for any complaints regarding classification, we have not heard them, and do not think there is anything in the report.

I expect to see you when I go west, and will discuss the matter more fully with you. In the meantime, keep your shirt on. Would it not be well that both yourself and inspector go over the work with Mann.

Yours sincerely,

C. A. YOUNG.

Q. What about that expression 'keep your shirt on'? Had there been any discussion which that points to?—A. Yes, I had objected to a junior engineer being promoted over my own head, and the various other district engineers, and given the position of inspecting engineer. I could not imagine what duties an inspecting engineer would be required to perform.

Q. Why?—A. Inspecting the work of men senior to him. He could not advise us on anything of importance. We had inspecting engineers on the work appointed by the Grand Trunk Pacific and they were instructed to act with us in the general supervision of the work we had under our control. We were to discuss everything with them and they were to have access to all plans and papers and in the event that we had a disagreement it was to be reported to the chief engineer.

Q. You see what Mr. Young says in his letter as to the appointment of an inspecting engineer so that he might be out on the work all the time. Were there any engineers on the work all the time in the employ of the Transcontinental?—A. Yes, every day, resident and divisional engineers, that is all that is required on every road. Other roads did not, however, have also the inspecting engineer as the Grand Trunk Pacific had.

Q. What was the necessity of appointing an inspecting engineer so far as you know?—A. If you will allow me to use a western expression you can search me.

Q. That is you cannot give us any reason?—A. Unless he was to be a second or assistant chief engineer. There is an assistant chief engineer and he came out to the work once or twice. Still I believe he was told he was to stay in the office.

By Mr. Murphy:

Q. You do not know that?—A. Yes, I know that.

By Mr. Hodgins:

Q. Mr. Young in that letter says he has heard no complaints as to classification. He uses the words 'As for any complaints regarding classification, we have not heard of them.' Did you interview any of the commissioners in Winnipeg in May?—A. Yes, about the end of May I think they were there.

Q. This interview in May, I mean May of 1907, would be previous to that letter?—A. Yes.

Q. Before I deal with that interview I want to ask whether you had gone over the line, whether you knew it and knew the men under you on it?—A. I had, I had gone to the principal portions of the line. There were portions on which there was no work going on, and it was not necessary to go on, but I had been on the principal portions of the line and my assistant had been.

Q. And did you confer with the district and divisional engineers with regard to it?—A. Yes, certainly. Saw them once or twice a month.

Q. That would apply to May, 1907?—A. Yes. It was when I found what I considered excessive classification was creeping in that I realized I had neglected outside work for office work. I admit that I would have liked to have spent more time outside.

APPENDIX No. 5

Q. Had there been any complaints up to June, 1907?—A. Complaints of what?

Q. With regard to disputes of classification, had any been officially reported?—A. Yes, in the ordinary way. You generally hear complaints, but nothing serious that I can recollect. There were no complaints in writing. We would discuss the affairs of the whole district when I saw them.

Q. Did you have any complaints from McArthur previous to that?—A. I do not think he put his complaints in writing. He complained various times and his engineer Mr. Hazelwood. I asked them to specify whether the complaints they had referred to classification or measurements, and to specify what particular places they disputed my engineer's classification or measurements, and I found it difficult to get them to come down to anything they would say that it was general all over the line. Mr. McArthur once complained of our measurements of the whole line; he said the contractors were not getting full measurements. Well, I considered that was absurd. Of course I had confidence in my men on the work. I believe that no such a thing should occur. One man or two might probably in a month underestimate, but as a rule you could not condemn such a staff as I had. No one would believe they were underestimating or undermeasuring. I could not get McArthur to get down to a specified case until shortly before I left, and then he mentioned a certain contract, Prefontaine's, I think, in which he said the engineer had not paid him enough and I immediately said I would put in an engineer to remeasure it. He said that the classification was too low generally. I asked him if he could state any particular point and he said no. I asked him for another contractor who had complained and he named a man named Welsh, I think, and I immediately sent out word to the divisional engineer and I think I sent out the assistant engineer to adjust it.

Q. Are these the only two specific complaints from McArthur?—A. The only two I can remember.

Q. You could not get him to specify instances?—A. No. I several times offered to go over the contract with him and get him to specify any places where he was not properly treated. I said I would put off everything else and go with him and he could not name a day. I met him once on one trip on the Winnipeg river, that was about the only time I had seen him on the work. I wanted him to go over the work and over the plans and decide it on its merits. I considered that his complaints were more or less trivial.

The committee adjourned.

TUESDAY, May 19, 1908.

The committee met at 4 o'clock p.m.

Mr. BARKER.—Before you declared the committee adjourned last Wednesday, Mr. Chairman, there was an order given by you to the clerk to have another subpœna issued.

Mr. MACDONALD.—There was some discussion, but I do not think the motion was carried.

Mr. BARKER.—Some gentlemen went away before the chairman gave the order to the clerk, but that does not matter.

Mr. HODGINS, K.C.—I made the motion. I desired to call Messrs. Heaman and Mann, and we asked that they be subpœnaed along with Mr. Armstrong, and I was surprised to learn on coming here this afternoon that no subpœna had been issued and the witnesses had not been summoned.

Mr. MACDONALD.—There was some discussion as to the advisability of subpœnaeing a whole lot of witnesses.

Mr. LENNOX.—It might have been after you left. There was some confusion, and

Mr. Hodgins made the motion. It was discussed with the chairman and agreed to. Mr. Hodgins did say he required some witnesses to be subpœnaed then.

The CHAIRMAN.—I understand that Mr. Armstrong is here.

Mr. HODGINS, K.C.—Yes, but I do not propose to call him before Heaman and Mann. He belongs to District 'B,' and I want witnesses belonging to District 'F' first.

Mr. MACDONALD.—We can order him to be subpœnaed to-day.

The CHAIRMAN.—Is it the pleasure of the committee that a subpœna be ordered for Messrs. Heaman and Mann?

Mr. HODGINS, K.C.—I also ask that Mr. Woods, chief engineer of the Grand Trunk Pacific, be subpœnaed. He has official custody of the documents and may have to be called first.

The CHAIRMAN.—What does the committee think about that?

Mr. BARKER.—I move that these three witnesses be subpœnaed.

The CHAIRMAN.—It is moved that Mr. Woods be added to the other two. What date?

Mr. Hodgins, K.C.—What time does the committee propose to sit? If they could be here by Thursday I would be glad to call Messrs. Heaman and Mann.

Mr. MACDONALD.—I thought you were going to call some of the regular engineers of the commission.

Mr. HODGINS, K.C.—When we discussed that it was stated that I could not get any as the work would be entirely denuded. I therefore named Heaman and Mann as my next witnesses.

Mr. MACDONALD.—It is not a question of objecting, it is only a question of arranging.

Mr. HODGINS, K.C.—The resident engineers I propose to call are men who know what was said at various times, and who will after Heaman and Mann have been called be able to give their evidence intelligently.

The CHAIRMAN.—Would you be ready to take Mr. Woods up before Mr. Heaman?

Mr. HODGINS, K.C.—Yes, but I would rather have Mr. Heaman. However, I can go on with Mr. Woods.

Mr. LENNOX.—The committee might say Friday.

Mr. BARKER.—If we carry the resolution the details can be fixed as to the order of the day. It is just possible that Mr. Woods may be in Quebec.

Mr. MACDONALD.—What did you say, Mr. Murphy, about the motion?

Mr. MURPHY.—I propose to call Mr. Poulin and I move that he be added.

Mr. MACDONALD.—I presume you do not intend to call him before Mr. Hodgins is through.

Mr. MURPHY.—No, not before Major Hodgins is through.

The CHAIRMAN.—The minutes are adopted then?

Mr. MACDONALD.—Mr. Woods and Mr. Heaman will be subpœnaed for Thursday, then?

Mr. HODGINS, K.C—Yes, or to-morrow if we get through. Now, let me call the attention of the committee to the disregard of the order which was made for the production of papers that I stated at the very inception were absolutely necessary to my examination. The original estimates of section (F) and section (B) have never yet been produced in this committee. I may say in passing that I attribute no neglect at all to Mr. Murphy. I arranged with him before I left on Thursday that those papers were to be here on Monday and that Major Hodgins would be here on Monday for the purpose of going over with him those papers. He was here on Monday but there was no production. This morning blue prints of copies instead of the originals were produced and although I protested I have not yet seen those originals, so that none of those documents which we have been talking about since the beginning have been produced. Then the correspondence relating to the estimates previous to July 1st, 1907, have not been produced and no reports as to the objections of the Grand Trunk

Pacific engineers on district (F) have been produced until September, 1907, although those reports I may say were referred to in the Board minutes as early as July 12. Out of the list of papers which I named giving dates and parties there have only been produced seven out of a total of fifteen or sixteen, I should think. Several of the other papers have been produced and shown to me just a few minutes ago, so I ask the committee if the committee intends their orders to be carried out by the commission to insist that some consideration be given to myself and Major Hodgins and that at all events the documents which are necessary that I should have here should be produced and which it was understood should be here before Major Hodgins' examination was gone on with.

Mr. MACDONALD.—Not before his examination was gone into. It was understood that those papers should be produced but not before his examination.

Mr. MURPHY.—There was no understanding of that kind. My learned friend has correctly stated what his request was after the last meeting of the committee. That request was communicated to the commission and we have produced some hundreds of documents for which I hold receipts from the clerk of the commission.

Mr. HODGINS, K.C.—Dated when?

Mr. MURPHY.—Dated to-day. Blue prints of the plans, estimates and profiles were produced to my learned friend and he stated that Major Hodgins had looked at them but that they would not be sufficient and that they wanted to see the originals. That request was transmitted to the commission and I am informed that the originals are documents of such great importance that cannot be brought up here and left out of their custody. The suggestion has been made that the commission would be very glad to afford Major Hodgins and his counsel under the eye of somebody representing the the commission and familiar with those profiles, an opportunity to inspect and go over the originals if the copies which we have produced here are not sufficient for their purpose. Those profiles and estimates are really the current history of the construction of the road and they form among the most important documents in the custody of the commission.

Mr. CARVELL.—Does not that seem to be a fair offer?

Mr. HODGINS, K.C.—No; some of those originals contain alterations made by Major Hodgins, and the blue prints, being only photographs, are without an indication that he made that check. I stated at the very beginning that I wanted those documents, and I have never been told that there is the slightest objection.

Mr. CARVELL.—You have been told that you can go over them at the office.

Mr. HODGINS, K.C.—I have heard that for the first time to-day. Mr. Murphy suggested before I left on Thursday that we should go over to the office of the commission. I told him that neither Major Hodgins nor I desired to visit the commission and that I wished the documents to be brought here to the clerk of the committee pursuant to the order of the committee. Now, if it is the order of the committee that they should be produced here, it is not reasonable that the commission should disregard that, and say: I won't allow them unless you go to the office.

Mr. CARVELL.—It seems to me a distinction without a difference.

Mr. MACDONALD.—Allow me to make a suggestion as to the practice. It seems to me that the commission should submit the documents to Major Hodgins and his counsel for inspection, and that some officer of the commission should attend here with the documents in his custody and take them away.

Mr. CARVELL.—Are there any marks on the originals that are not on the copies?

Mr. MURPHY.—The copies are exact reproductions.

Mr. BARKER.—Is no member of the committee entitled to look at those documents? I intend to look at them, and I do not know that I am bound to go to the office of the commission.

Mr. MACDONALD.—My suggestion would satisfy your curiosity.

Mr. BARKER.—It is not curiosity. It is my duty to look at those papers.

Mr. MURPHY.—The commission are quite prepared to do what Mr. Macdonald suggests.

Mr. LENNOX.—While the committee are in session any document considered by any person, whether it is the original or not, to be necessary should be here. What should be done afterwards is a matter for further consideration, but undoubtedly the papers should be before the committee when it is sitting. In many cases I presume it would be found that copies of the documents would serve the purpose, but in some cases we will have to have the originals. We want to accommodate ourselves as far as we can.

The CHAIRMAN.—Are the copies an exact reproduction of the originals?

Mr. MURPHY.—They are.

The CHAIRMAN.—Then I don't see much difference.

Mr. LENNOX.—That may be in most cases, but there are cases where the copies might not show the different stages the work had gone through, such as Mr. Hodgins says, where Major Hodgins made alterations.

Mr. MURPHY.—These are shown on the copies.

Mr. CARVELL.—Major Hodgins has the advantage over everybody else, in that he knows what documents he wants, and I am satisfied that the committee will be prepared to order those documents to be brought here if they are considered necessary. Of course, if he has too high a sense of dignity to go to the commission office——

Mr. BARKER.—I do not think that is a proper thing to say. He has told us he only heard of it to-day for the first time.

Mr. MURPHY.—It was suggested last week.

Mr. CARVELL.—I heard Mr. Hodgins say that neither he nor the Major would go to the office. If papers are wanted they can be brought here and put on the table, but they must be taken away again by the official in charge. I do not think they ought to be left here. I am only too willing that Mr. Hodgins should have every original document on this table.

Mr. BARKER.—I want it understood very clearly that this committee is not confined to Major Hodgins or his charges. There is a far broader inquiry here than that. Whether Major Hodgins wants to see them or not, if this committee orders the production of the papers, the papers ought to be here.

Mr. CARVELL.—There won't be any difficulty in getting a look at the papers.

Mr. HODGINS, K.C.—I would like to call attention to what I said when the matter was up before (reads): 'I contend that it is impossible for any resident engineer in charge of 250 miles of road to repeat from memory the date as to classification objection, etc., and to suggest that I shall be asked, without having seen them until to-day, to go on and examine the witness, is something the committee should not ask me to do. I venture to say that no court in the land would say that if you cannot prove charges out of your own mouth we will not allow you to produce the documents or papers.

'Mr. MACDONALD.—No one proposed that. We want to be fair.

'Mr. HODGINS, K.C.—We cannot proceed without those papers and without opportunity to read them, and point out whether they are erroneous in view of the evidence.

'Mr. MACDONALD.—No one expects you to do that.'

Mr. HODGINS, K.C.—So I fully understood we would have those papers.

Mr. CARVELL.—Can you point out any papers you have asked for and that have been refused?

Mr. HODGINS, K.C.—Yes, I can. I will tell you the name of one paper, namely, item 3, page 11 of the charges. The August estimate, from which Major Hodgins struck out over-classification.

Mr. CARVELL.—Who did you ask?

Mr. HODGINS, K.C.—I asked this committee to direct the production of papers.

Mr. CARVELL.—You are not treating us fairly. Did you ask the commission?

Mr. HODGINS, K.C.—I asked Mr. Murphy for the production of the papers.

Mr. CARVELL.—Where was he?

Mr. HODGINS, K.C.—In his office.

Mr. CARVELL.—Did you suppose that he had them in his office?

Mr. HODGINS, K.C.—No, he was to get them and have them here on Monday. The papers are not here yet. I have not seen them.

The CHAIRMAN.—I think the committee wants to be reasonable. We do not want trouble if we can help it. But we understand that the commission does not want to bring all its papers, which are important documents, here if they can possibly do without it. If the copies are exact copies of the originals with notes and everything why should we not admit them?

Mr. BARKER.—We want to see the originals.

The CHAIRMAN.—Let them go on. Why should we not admit them?

Mr. BARKER.—Because I prefer to see the originals, and intend to. The commissioners can send clerks here with the papers.

Mr. MACDONALD.—Let us get back to the proposal. Let Mr. Murphy or the commissioners bring in charge of one of their officers the original documents that Mr. Hodgins wants. Let them remain in the custody of the clerk. We, of course, as well as Mr. Hodgins, will have the privilege of examining them.

Mr. LENNOX.—And in addition to that we will have to have also what is the practice in other committees, where any member may see documents in the intervals while such are under the custody of the clerk.

The CHAIRMAN.—Let it be understood that the documents which are not considered sufficient as copies be named by Mr. Hodgins and be brought here in the charge of an officer of the commission, left here with him during the meetings of the committee and examined by Mr. Hodgins and members of the committee, and then taken back to the commission.

Mr. LENNOX.—We want also what we observe elsewhere that if members of the committee desire during the recesses of the sittings, to look over the documents the clerk will also be here for that.

Mr. CARVELL.—I think the perusal of two or three documents will satisfy the curiosity of our friends and that we ought to go on with the examination.

Mr. BARKER.—We have been a week at this now and it seems to be impossible to make people understand that we want to see the originals.

Mr. CARVELL.—I think my honourable friend is looking for a grievance.

The CHAIRMAN.—Suppose that we bring the originals and compare them with the copies and if they are found to be exactly similar to the originals let the commissioners take back the originals. Is that fair enough?

Mr. BARKER.—It would be except that there might be cases where the witnesses might want to see the original documents. Documents written by one man and sent to another may have been marked or altered and we must have the documents here. The copies will not show that.

Mr. CARVELL.—So far as I am concerned there will not be any objection to bringing any document and letting it be examined.

Mr. HODGINS, K.C.—Some documents have not been brought here.

Mr. CARVELL.—You will not say that any documents have been refused?

Mr. HODGINS, K.C.—I don't understand what you mean. I arranged with Mr. Murphy that they would be brought here on Monday and that is not carried out.

Mr. CARVELL.—You will have them.

Mr. HODGINS, K.C.—I have a right to look for them to-day.

Mr. CARVELL.—You have seen the copies and know what is in them. Will you say that you are not in a position to examine without the original documents?

Mr. HODGINS, K.C.—On that point I am not.

Mr. CARVELL.—It looks to me that Mr. Hodgins is looking for a grievance. So far as I am concerned I don't want to give them any, and I propose adjournment until eight o'clock so that Mr. Hodgins can examine the documents. I do not want him to

have a grievance and I want to adjourn so that he can see them. We had better adjourn and get him these documents.

Mr. PARENT.—What is it that you want? We will produce it. We don't want any more delay.

Mr. MURPHY.—My suggestion is that a list of the documents be made in writing and that we get them out.

Mr. CARVELL.—To avoid misunderstanding name your documents. I want Mr. Hodgins to say that he wants these documents or that he does not want them.

Mr. HODGINS, K.C.—I have said so.

Mr. CARVELL.—What are they?

Mr. HODGINS, K.C.—Various progress estimates and profiles of district F and B. Reports of division engineers to district engineer and by him to the chief engineer from January, 1907, to the present time, also those relating to district B.

Mr. CARVELL.—Of those which do you require to begin this afternoon?

Mr. HODGINS, K.C.—I require the profiles and progress estimates December, 1906, January, 1907, February, 1907, March, April, May and June. These are Mr. McIntosh's division of district 'F' and also the August estimates covering the same division. Then for the examination of Major Hodgins on matters referred to in his charges, I shall want the estimates from January, 1907, to September, 1907, covering Mr. Richan's division. The others that I have mentioned will be required for the other witnesses.

Mr. CARVELL.—Then you cannot properly proceed with the examination of witness this afternoon? You cannot go on without those documents?

Mr. HODGINS, K.C.—I say that I can proceed to a certain distance and then shall have to stop, and I want to look at these documents before I can proceed again.

Mr. CARVELL.—If you say that you cannot go on I want to adjourn in order to give you an opportunity to see those documents.

Mr. HODGINS, K.C.—I can go so far and when I get to that point I shall have to stop.

Mr. MACDONALD.—I am sorry that I shall have to go to the House on business. How would it be to give Mr. Murphy the list and he could give you the papers which you call for. I am anxious to facilitate matters and the examination of Major Hodgins can go on in my absence.

Mr. HODGINS handed to Mr. Murphy a written statement comprising the papers already named in the foregoing which he required.

Mr. MURPHY.—Does this comprise all that you want the originals of?

Mr. HODGINS, K.C.—No, there will be more I expect, but that is all I want for Major Hodgins' examination so far as I know. I intend to proceed by asking as to some papers mentioned previously. There is no objection to their production I suppose?

Mr. CARVELL.—There is no objection to any production.

Mr. HODGINS.—I have explained that there is non-production.

Mr. CARVELL.—I know that the commission is anxious to have everything here. I am objecting to Mr. Hodgins or members of the committee trying to create the impression of anybody keeping back documents. They are trying to create that impression before the country.

Mr. LENNOX.—We are not so much concerned about the country as about facts.

Mr. CARVELL.—I am concerned a little. Sometimes there has been a concealed attempt to raise the question that we are trying to keep back documents and I propose to ask the committee again to adjourn for the time being so that Mr. Hodgins may see the documents.

Mr. MACDONALD.—I think we should go on with the examination of witness. I am going out but it can go on providing that nothing controversial is raised during my absence.

APPENDIX No. 5

Examination of Major Hodgins resumed.

By Mr. Hodgins, K.C.:

Q. Major Hodgins, I think on the last occasion we had got down pretty well to an interview which took place with some members of the commission. A number of them in Winnipeg some time either in May or June, 1907. Do you remember whether that was in May or June exactly?—A. Either the end of May or early in June.

Mr. HODGINS (to Mr. Parent).—Can that date be stated so as to save trouble?

Mr. PARENT.—About the 9th of June.

By Mr. Hodgins, K.C.:

Q. Then in Winnipeg you met the commission?—A. Yes.

Q. Who were there?—A. I think they were all there.

Q. Was McArthur there?—A. He lives in Winnipeg, yes.

Q. Did you have any discussion with any members of the commission with regard to the McArthur contract?—A. Yes.

Q. Who did you speak to, who was the conversation with?—A. I am not certain whether McArthur was there, but it was to all the others, I think.

Q. What was said to you by any commissioners dealing with the McArthur contract?—A. We discussed the advisability of more men going on the work in consequence of a statement I had put in showing the amount of time it would take to finish up some heavy cuttings.

Q. I see from the minutes of the board a letter dated May 9, written at Ottawa, and copies of that and the chief engineer's letter of 15th of May directed to be sent to McArthur. Would that be in answer to the statement you refer to?—A. Possibly.

Q. At all events you complained about something to the commissioners. How did the discussion arise?—A. I do not know whether we discussed it generally. I think they were there a couple of days.

Q. Now, what was said about the want of men?—A. Well, I understood that the chief engineer saw him or that he had written a letter.

Q. Did you talk to any individual member?—A. Yes, more or less.

Q. With Mr. Young?—A. Yes.

Q. What was that conversation?—A. Well, that was perhaps about the work and the state it was in.

Q. Yes, what was the state at that time?—A. He spoke about the trouble he was having about the McArthur contract.

Q. Trouble he had had or was having about the McArthur contract?—A. Yes, and that something ought to be done. McArthur was complaining about not getting enough measurement and not enough classification. I said that the engineers we had were giving him correct measurements. They were all experienced men, and as far as I knew classification was not a very serious matter so far as we had gone. I told him how much mixed material excavation and loose rock had been returned up to that date, and he said that he did not understand it; something ought to be done for McArthur. I said I was doing all I could; we were estimating as high as we could, so I understood from the engineers. Then he referred to Quebec. He said that in Quebec he understood there was more classification to be done, but the prices were lower there, and the contractors all seemed to be satisfied. There was a row on in District 'F' and no trouble in Quebec.

Q. Yes, and what further?—A. He said why I did not do as Doucet did.

Q. Yes?—A. I said I did not think there was any difference in what Doucet was doing and what I was doing. If Doucet was put on my district he would do what I was doing, and if I was on his I would do the same as he was doing. It was an engineering thing, and I suggested that he had better leave the engineering question alone, as he admitted that he did not understand classification.

Q. You advised him to let the question alone, as he did not understand classification? He admitted that?—A. Yes; but he said that I had better go to Quebec and see.

Q. Yes; see what?—A. See the work done there; get an object lesson.

Q. What was your reply?—A. I said I did not require an object lesson; I had enough experience to know what to do in my own district, and had not time to go to Quebec. I wanted to go out on the work as soon as the snow was off; it was about going off then.

Q. You wanted to go out on the work when the snow went off?—A. Yes.

Q. Did you have any talk with Mr. Reid?—A. I expect so.

Q. Do you remember any?—A. Yes, we were there all together in the hotel, and we all talked together about conditions.

Q. Who do you mean by all?—A. I talked to them all.

Q. Mr. Reid, Mr. Young, Mr. Parent?—A. Yes.

Q. Well, what was the talk with Reid in Winnipeg?—A. I think I suggested to Mr. Reid that it would be better if Young left the engineering part of the work alone; that he was a good-natured man, and liked to help everybody, but did not understand much about it.

Q. What did Mr. Reid say?—A. He agreed. He said: Yes, that the commissioners had their work to do, and they did not know anything about various engineering questions.

Q. Was anything said between you, Young and Reid and Lumsden, that you recall in Winnipeg in the discussion as to the chief engineer, for instance?—A. Yes, there was something. I think I told Mr. Reid and Young and Lumsden that one of the contractors' engineers wished that Mr. Young was chief instead of Lumsden, or something of that kind.

By Mr. Murphy:

Q. Who said that?—A. One of the contractors' engineers.

Q. What did he say?—A. That he wished Young was chief engineer instead of Mr. Lumsden.

By Mr. Carvell:

Q. You told this to the three of them?—A. Yes.

By Mr. Hodgins, K.C.:

Q. Was there anything said about the chief engineer when Mr. Lumsden was not there, between you, Reid and Young?—A. I do not remember whether there was on that occasion or not when we discussed Mr. Lumsden.

Q. On any occasion in Winnipeg?—A. I think in discussing the question with Young and in reference to the Quebec work, he said that I referred too much to Mr. Lumsden, and I said that Mr. Lumsden required me to refer to him; that I had to do what Mr. Lumsden wished.

Q. Well, he said?—A. Well, he said that Doucet did not refer very much to Lumsden.

Q. Yes?—A. He advised me to do the same thing; he said I ought to be experienced enough to know what to do myself.

Q. Yes?—A. I said that so long as I was subordinate to the chief engineer I considered it my duty to refer everything I considered necessary.

Q. Yes. Did he say anything then; what was his answer?—A. Nothing on that occasion.

Q. Did he say anything on any other occasion?—A. Very much the same sort of discussion took place in Ottawa.

Q. Yes, when?—A. I think it was the time I went down to appear before the board after Mr. Grant put in his charges against the engineers on the district. I had

to wait two or three days before the board met. I saw Mr. Reid. I told him that when I came down the way things were going I had got disgusted and thought of resigning, but when I had read Grant's report I intended to fight it out, not so much that I cared personally, but for the statements he had made against the engineers in the district, whom I considered superior men to Grant.

Q. Well was anything said about the chief engineer at that time?—A. Yes, I said I had just been in to see the chief engineer about getting permission to do some things on the line and he still adhered to his original decision that these must be referred to him, I must get permission from him. I said 'It won't make very much difference.' It was on the question of borrowing rock—the contractors wanted to borrow rock—and borrowing rock would eventually have been necessary in building roads. I mentioned one or two instances like that. He said 'well you ought to act on your own responsibility. You know what to do, we have got confidence in you.' And I said, 'well, I cannot.' He said, 'You ought to ignore the chief engineer.'

Q. He said what?—A. 'Why don't you ignore the chief engineer'?

Q. Yes?—A. He spoke about him being old fashioned, of course, and rather difficult—

Q. Yes, and rather what?—A. And taking some time to give a decision.

Q. Yes?—A. And said his time was taken up with the office and he had quite enough to do, I had better act upon my own responsibility, and that the chief engineer liked to be ignored. I said 'That is rather a strong way of putting it but as long as the chief engineer is there I have got to report to him.'

Q. Yes?—A. He said 'The trouble with you is that you are too much of a military man, you are too loyal to your chief.'

Q. Now what was that conversation in reference to?—A. That began with reference to Mr. Grant's report.

Q. But when he spoke of ignoring the chief engineer and acting on your own responsibility that was as to what?—A. He said this way: 'We want the work done, we want the work carried on, we don't want any kicking because a great many complaints are made.' I said 'These complaints should be made to the chief engineer, through the district engineer, and not direct to the commissioners.' I said, 'We know how to deal with them.'

Q. Well now was anything said at that time about stripping?—A. Yes. They mentioned talking about being more generous in a general way.

Q. More what?—A. More generous in a general way. He said 'I hear some of your engineers measure the stripping.'

Q. Measure the stripping?—A. Measure the stripping of a rock cut. I said 'Yes, it is customary to do that.' He said 'No, it is trifling, it should not be taken into consideration.' I said, 'When it is trifling it certainly is not measured. If a man has got to go around with a dust pan and a broom to scrape it up we are not going to measure it or take it off the contractor, but if it amounts to anything that can be measured in any appreciable quantity then it has got to be measured and classified according to the classification it happens to be.'

Q. What did he say to that?—A. He did not say very much. That is about all I think.

Q. What do you mean—just explain because I do not quite understand—what was the question there about the measurement or classification of strippings?—A. What question?

Q. You said that the engineers measured the strippings, measured them as what?—A. The stripping is the mixed material that overlies rock, and if that lies over the rock in such quantity that it can be measured——

Q. Yes?—A. Say a couple of feet deep or more than that, or even less in some cases, that is measured and classified according to the material it happens to be. If

it is earth it is put in as common excavation. If it is a mixture of loose rock it is put in as loose rock.

Q. Then what was said when you were discussing about how it should be measured?—A. What was said? In what way?

Mr. MURPHY.—I object, Mr. Chairman to any leading questions. I have already allowed a couple of such questions to go.

The WITNESS.—The question of strippings came up with reference to the question say of liberality by the engineers.

By Mr. Hodgins, K.C.:

Q. Yes. Liberality in what direction, that is what I want to know?—A. He gave it as a sort of instance. He said 'I don't know anything about engineering.'

Q. What I want you to make clear is what his idea was that he was conveying to you about the measurement of strippings?

Mr. MURPHY.—What did he say, not what his idea was?

Q. As conveyed to you?—A. I don't know what his idea was but I said to him, 'You have evidently been listening to Grant, you have not been listening to Mr. Lumsden.'

Q. Was this Mr. Reid or Mr. Young?—A. Mr. Reid.

Q. What was said about it?—A. That was all.

Q. What was said by him about his measuring?—A. He gave it as an instance. He said, 'I understand some of your engineers measure the stripping of a rock cut.' Well I don't think that he knew what he was talking about. He had heard probably that it was considered improper to measure, or unreasonable for engineers to measure stripping.

Q. That is what I want you to explain?—A. And I explained to him there were different kinds of stripping, there was stripping that could be measured and had to be measured, no one could get away from it. The stripping that he probably referred to was immaterial, as I illustrated to you—the stripping you would have to scrape up with a broom and dustpan.

Q. Was all this talk of stripping with Mr. Reid?—A. It was in Mr. Reid's office. We discussed things generally.

Q. Was Mr. Reid alone or were any of the other Commissioners there?—A. He was there alone.

Q. This was in Ottawa?—A. Ottawa, yes.

Q. Did you have any other conversation, either in Winnipeg or Ottawa, with any Commissioners with regard to the classification of material in your district?—A. Well, as I said, I had a conversation with Mr. Young about classification in Winnipeg.

Q. In Winnipeg. Is that what you detailed to us?—A. Yes.

Q. Or had you other conversations?—A. I had spoken to him several times about it.

Q. What did he say to you?—A. I said it did not amount to very much at the time.

Q. What did not amount to very much?—A. The classification in the district up to date, up to say July or June.

Q. In what way did it not amount to very much?—A. We had not encountered very much in comparison with the amount of rock, or say the proportion of loose rock and common excavation returned to date was much less than the proportion of solid rock.

Q. What started this conversation?—A. In Winnipeg?

Q. Yes?—A. The condition of the contract.

Q. In what respect?—A. Lack of men.

Q. Yes?—A. And the report I had put in.

APPENDIX No. 5

By the Chairman:

Q. Is that not the same interview that you mentioned a few minutes ago?—A. Yes.

Q. That is the same one that you had in Winnipeg? That is what you related before?—A. Yes.

By Mr. Hodgins:

Q. Well here is your letter of 9th May to Mr. Lumsden (reads):

EXHIBIT No. 4.

HUGH D. LUMSDEN, Esq., KENORA, May 9, 1907.
Chief Engineer,
Ottawa.

DEAR SIR,—Based on the April rate of progress grading on the following divisions should be completed as follows:—

Division 5 M 0 to 47—on 3 years 8½ months.
6 M 47 to 90—on 5 years 5½ months.
7 M 90 to 131—on 2 years ½ month.
8 M 131 to 181.6—on 2 years 1½ months.
9 M 181.6 to St. B. should have track laid by end of this year. There are very few men on at present owing to frost.

The above estimate is based on total yardage, not on certain large cuttings that can only advance at a certain rate per month.

Division 5 and 6 should advance more rapidly during the summer months, and there is no reason why the greater portion of division 5 should not be completed in a year if sufficient men are put on. The progress profile shows little work opened up, but I have been assured by Mr. Webster that sufficient plant is now on this division on Philipp's contract to proceed rapidly, and that several cuttings have been opened since the April estimate was taken.

In order to compare McArthur's rate of progress with that of the branch line, would it be possible to get the total yardage of rock and earth on the branch or the total estimated cost, and work out a comparison with Mr. McArthur's rate of progress, taking into consideration the Foley Bros. started the branch in Sept., '05 and McArthur in May or June, 06?

Taking the branch at 200 miles, and the main line, McArthur's contract at 250 miles, McArthur has 5 miles to build for every four on the branch.

Yours truly,

A. E. HODGINS,
District Engineer, 'F.'

Q. Was the letter I have just read put in as Exhibit 4 the one which created the discussion?—A. In Winnipeg?

Q. Yes?—A. There was another statement I put in. It was a detailed statement of all the cuts that had not been opened up, a long list and it gave the amount of time, the number of months that had been spent on them, and how long at the same rate of progress it would take to finish them.

Q. I would like to have that report?—A. I think it was on that Mr. Lumsden based his letter. I gave him that in Winnipeg.

Q. On that date?—A. When we were up there.

Q. Or earlier?—A. No, that was when we came up there, that is on the 9th of June. Possibly this had something to do with it, but the detailed list I gave him would be——

Q. Well, they have that detailed list here, I think. You wrote that letter on the 9th of May, didn't you?—A. Yes. (reads): 'List of heavy cuttings, showing approximate time of completion.'

Q. What is the date of that letter?—A. June 6.

234 EXHIBIT No. 5.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

KENORA, June 6, 1907.

DEAR SIR,—I am sending you a list of cuttings, showing the amount of cubic yards excavated, and still to be excavated, and reckoning that these cuttings can be worked at the rate of 1,000 cubic yards per month, the last column shows the number of months required to finish from June 1st. I have sent Mr. McArthur a copy. Some of the cuttings are not advancing at the rate of 1,000 cubic yards per month, but in order to fix a uniform rate for comparison, we consider 1,000 cubic yards per month not too much to expect.

Yours truly,

A. E. HODGINS,
District Engineer.

LIT OF HEAVY CUTTINGS, showing Approximate Time of Completion.

Mile.	Cubic yards in cut.	Cubic yards excavated.	Cubic yards still to excavate.	Time to finish, reckoning 1,000 cubic yards per month from 1st June, 1907.
39	38,300	Nil.	38,300	38 East.
47	32,200	2,400	30,806	15 each way.
48½	4,000 earth	Nil.	4,000 earth	32 East.
	41,609 rock	Nil.	41,600 rock	10 West.
50½	16,130	Nil.	16,130	16
51¼	24,550	Nil.	24,550	8 East. 16 West.
52	36,110	1,500	34,610	32 West.
	20,300	Nil.	20,300	12 East. 8 West.
54¼	18,295	Nil.	18,295	15 West. 3 East.
55	47,600	Nil.	47,600	36 East. 11½ West.
64½	47,500	2,150	45,350	38 West. 10 East.
79¼	13,800 West	1,800 West	12,000	12 West.
	14,000 East	1,550 East	12,450	12½ East.
79¾	14,735	Nil.	14,735	15
80½	16,700	900	15,800	16
82½	20,230	3,950	16,280	16
83¼	25,600	Nil.	25,600	25
83½	17,830	Nil.	17,830	18
86½	525 tunnel 10,300 West	1,560	9,080	9 West.
	6,700 East	Nil.	6,360	6 East.
87	25,000	900	24,100	24
87½	18,200 West	970	17,230	17
88	425 ft. tunnel	.....	.....	.....
88	425 ft. tunnel 12,600 West	.....	12,500 West	12½ West.
	9,500 East	100	9,500 East	9½ East.
90	11,930 West	Nil.	11,930	12
93¼	22,950 East	1,550	21,400	21½
99	13,590	880	12,710	10½ West.
99½	14,830	Nil.	14,830	15
99¾	11,310	Nil.	11,310	11
102¼	17,550 West	1,170	16,380	16
103½	23,450 West	1,750	21,700	22
105	17,650	1,100	16,550	16½
109½	37,510 East	1,030	36,480	36½
190¾	15,900 East	310	15,590	15½
112½	37,510 West	1,400	36 110	36
113	17,550	Nil.	17,550	17½
113¾	15,450	Nil.	15,450	15½

APPENDIX No. 5

LIST OF HEAVY CUTTINGS, showing Approximate Time of Completion—*Continued.*

Mile.	Cubic yards in cut.	Cubic yards excavated.	Cubic yards still to excavate.	Time to finish reckoning 1,000 cubic yards per month from 1st June, 1907.
124¼	11,600	11,600	11,600	11½
124¾	23,990 West	1,200	22,790	22¾
126¼	13,600 East	2,100	11,500	11½
128½	Tunnel 500–25, 330 West 35	4,500	16,030	16
131½	18,230 East	4,300	13,930	14
	16,350 East	Nil.	15,050	15
133¼	16,350 Easte	1,300	15,050	15
	26,680 Waste	Nil.	26,680	26½
	24,130 West	4,000	20,130	20
	600 ft. tunnel			
137	29,950	9,100	20,850	21
141½	1,075 East	Nil.	1,075 West	1 West.
	22,170 East	6,469 East	15,698 East	15½ East.
142¼	12,252 East. 618 waste	4,936 East	7,316 East	7½ East.
	17,578 West	5,140 West	12,438 West	12½ West.
142¾	32,667 West	2,126 East	22,830 West	22½ West.
		8,311 West		
144	20,931 East	Nil.	14,180 East	14½ East.
	5,342 West	6,750 East	5,342 West	5½ West.
144¼	17,560 East	2,780 East	10,600 East	10½ East.
	9,030 West	5,226 West	3,800 Wst	4 West.
145	3,550 East	Nil.	3,550 East	3½ East.
	12,130 West	3,324 West	8,810 West	9 West.
145¾	9,275 East	4,169 East	5,100 East	5 East.
	10,170 West	70 West	10,100 West	10 West.
146¼	32,929 East	3,997 East	28,930 East	29 East.
	3,762 East		2,923 East	3 East.
147	19,621 West	839 East	19,565 West	19½ West.
	3,700 Waste	56 West		
148¼	3,316 East	1,406 East	1,910 East	2 East.
	27,790 West	609 West	27,180 West	27 West.
148½	18,751 East	1,930 East	16,820 East	17 East.
	2,882 West	2,946 West		
149¼	13,333 East	2,450 East	10,880 East	11 East.
	4,100 West	West	4,100 West	4 West.
149½	13,700	3,790 West	9,910 West	10 West.
150½	3,837 East	2,915 East	920 East	1 East.
	14,222 West	Nil.		15 West.
151¾	10,420 East	Nil.	10,420 East	10½ East.
	3,620 West	Nil.	3,620 West	3½ West.
153¼	417 East	75 East	340 East	
	23,990 West	5,470 West	18,520 West	18½ West.
154½	7,670 East	3,580 East	4,090 East	4 East.
	15,020 West	6,320 West	8,700	9 West.
155	12,200 East	5,710 East	6,490 East	6½ East.
	24,360 West	6,360 West	18,000 West	18 West.
156	18,420	3,560 East	14,860	15 East.
156¾	20,790 East	4,910 East	15,880 East	16 East.
	2,074 West	Nil.	2,074 West	2 West.
158¼	3,280 West	1,000 East	2,280 East	2½ East.
	9,860 West	320 West	9,540 West	9½ West.
159½	3,670 East	4,220 East	Nil.	
	19,550 West	6,700 West	12,850 West	13 West.
161½	12,980	170	12,810 West	13 West.
162½	11,683 East	250 East	11,433 East	11½ East.
	490 West	Nil.	490 West	
163¾	15,490 East	3,450 East	12,040	12 East
	4,040 West	4,340 West	Nil.	
165	15,810 East	3,420 East	12 390 East	12½ East
	6,270 West	1,400 West	4,870 West	5 West
166	8,907 West	3,685 West	5,222 West	5½ West
	10,083 East (possible waste)	1,145 East	8,938 East	9 East
166¾	12,135 East	1,605 East	10,530	10½ East
	6,960 West	5,700 West	1,260	1½ West
168¼	3,030 East	3,000 East	Nil.	
	17,648 West	7,030	10,610	10½ West

Winnipeg River crossing mile 135.

And then it gives the material and the cuttings.

MAJOR HODGINS.

Q. Was that given to Mr. Lumsden in Winnipeg?—A. I think I brought a copy up; he either had his copy or I had my copy with me.

Q. Was any reference made to that letter in the conversation with Mr. Young and Mr. Reid?—A. Yes—well, not with Mr. Reid, I do not think; they were all there then; I have no doubt they all knew about it, that Mr. Lumsden discussed the question with them.

Q. Was any reference made to it in the discussion in Winnipeg?—A. Yes.

Q. What was the reference made to it? What was said about it by them?—A. In conversation with Mr. Young he said: 'Mr. McArthur claims that he is not getting enough classification, and short measurement by some of the engineers.'

Q. Yes?—A. I told him I did not think that was the case; that if he was losing money it was his own fault.

Q. That, then, followed the conversation that you detailed to us that took place in Winnipeg with Mr. Young?—A. Yes.

Q. Very well. Did you leave Winnipeg with the commissioners?—A. Yes, we went down in their car.

Q. Was there any further discussion in the car on the way down?—A. It was decided that I should go to Quebec.

Q. I just want to know how it was decided—what was said?—A. Mr. Young, I think, said he had been speaking to me about going to Quebec, and he asked the chief engineer if he did not think I ought to go, or would he give me permission to go, something like that, and the chief engineer consented.

Q. He consented. That was on the way down from Winnipeg to Kenora?—A. On the way down, before I got off.

Q. Then, was there anything more said about it than you have told us?—A. Not on the car; I do not think so.

Q. Not on the car. Was there anything said about holidays?—A. I said I hadn't very much time, and I did not particularly want to go down to Quebec to see anything; if I was going to have a holiday, I would sooner spend it some place where there wasn't any railway. I hadn't had a holiday for three years.

Q. How was the date for the Quebec trip fixed?—A. They told me to meet the commissioners in Montreal, I think it was, on a certain date; I think I afterwards telegraphed them to find out, and I went down to Quebec on that date, about the 17th.

Q. How did you ascertain the date you were to meet them in Quebec?—A. They told me what time they proposed to leave Ottawa and I would meet them in Montreal.

Q. In Montreal?—A. In Montreal.

Q. What date did you meet them in Montreal?—A. I forget what date I left. I think it was between the 15th and the 17th of the month, and I went straight down to Montreal.

Q. Well, then, the trip to Quebec took from the 17th, did it, until the 25th?—A. About that time.

By Mr. Murphy:

Q. Was this in June?—A. In June.

By Mr. Hodgins:

Q. I am putting in this letter of June 6 (Exhibit 5). Now, where did you meet the commissioners, Montreal?—A. I think I went up to Ottawa, and then they left the same day, and we went down to Montreal.

Q. Yes, where did you go from Montreal?—A. We took the boat to Quebec and stopped in Quebec that night.

Q. Who were with you on the trip? Who did you find formed the party?—A. All the commissioners, the chief engineer and the other district engineers.

Q. What other district engineers?—A. I think they were all there with the exception of Mr. T. S. Armstrong.

Q. Can you give me the names of the other district engineers?—A. Mr. Poulin from North Bay, Mr. Molesworth from Ottawa, Mr. Dunn from New Brunswick.

Q. And yourself?—A. And myself.

Q. Mr. Doucet was not there, was he?—A. We met him in Quebec.

Q. Now, you went down, as you say, you went down by boat from Quebec?—A. Yes.

Q. Had you any conversation with the commissioners on the way down?—A. Yes.

Q. Or with any of them?—A. Yes.

Q. What was the conversation about?—A. I had a conversation about the appointment of the inspecting engineer.

Q. Who was present when this conversation took place?—A. I had several conversations about it.

Q. Who did you have the conversations with?—A. I think with two or three of the commissioners, Mr. Young, Mr. Reid, Mr. McIsaac, and then I had a conversation with Mr. Young, I think it was.

Q. When?—A. When we were on the boat.

Q. On the boat going down; now what was said? You said you had a talk about that appointment, what was said in connection with it?

By Mr. Lennox:

Q. Were these separate conversations, Mr. Hodgins?—A. Well, we discussed the appointment, I was doing considerable kicking about it.

By Mr. Hodgins:

Q. You?—A. And Mr. Reid said that the appointment was made and it would have to go, that it was their intention, it was no slight on the district engineers, the appointing of a junior man above them, that it was the intention of the commissioners to have a uniform classification all over the line and that Mr. Grant had been selected.

By Mr. Murphy, K.C.:

Q. Who said that?—A. I think it was Mr. Reid.

By Mr. Hodgins:

Q. To have a uniform classification all over the line?—A. All over the line, yes.

Q. Yes?—A. And Mr. Grant had been selected. He had been recommended to them and that was the end of it. That was the substance, I think, of the conversation.

Q. Recommended by whom?—A. Recommended by Mr. Doucet as the best man he had.

Q. What was said about his qualifications?—A. Well, he had been assistant district engineer in Quebec and as such had had charge of classification there.

Q. Had charge of classification in Quebec?—A. And it was a difficult section to classify.

Q. Yes?—A. Therefore, they presumed he had had more experience in classification than others.

Q. They wanted a uniform classification?—A. They wanted a uniform classification.

Q. Did they say what the uniform classification, what the standard was?—A. No. They told me afterwards that the Quebec classification was to be taken as the standard.

Q. Was to be taken as the standard. Who said that?—A. Mr. Young, I think.

Q. Was anyone present besides Mr. Young when that statement was made?—A. I don't remember. There were a lot of us together. We were on the boat. We were sitting at the stern of the boat—Mr. Reid, Mr. Young and Mr. McIsaac, and I think Mr. Dunn was there. Mr. Poulin, I think, was there for a short time. I cannot remember all who were there.

Q. Well then you got to Quebec and did Mr. Doucet join you?—A. We went to Mr. Doucet's office and then we drove over some of the work.

Q. I mean when you got to the city of Quebec where did you go to? Is Mr. Doucet's office in the city of Quebec?—A. Yes.

Q. You went over what work with him and the others?—A. We drove over some of the work near Quebec.

Q. Near Quebec?—A. Drove down and saw the viaduct.

Q. The what?—A. There is a viaduct there.

Q. Not this Quebec bridge?—A. We passed the Quebec bridge.

Q. Standing then, I suppose? From there where did you go?—A. The next morning we went to Three Rivers, I think it was.

Q. Just follow on to where you went?—A. And then took the train up to some station, and then took the boat. We went down the river.

Q. What river was it?—A. The St. Maurice.

Q. And you went to where?—A. To La Tuque, a town called La Tuque, or the landing opposite La Tuque.

Q. Then you disembarked, I suppose?—A. We got off there, yes; and we drove over the work—a portion of the work.

Q. Drove over the work in cabs?—A. No, in wagons, in carriages.

Q. All drove over it?—A. I think so, yes.

Q. Did you all remain in the carriages, or did any of you get out?—A. First of all, we drove towards the St. Maurice river, I think it was—some river—and saw where some of the bank had been blasted out. Then we came back and drove over the line, and then we got to this large tunnel cut.

Q. The large tunnel cut?—A. What I call a tunnel cut. I don't know the mile or the station.

Q. But you know the cut, I suppose?—A. Yes. Then I got out.

Q. Well, now, did any one else meet you down there or in Quebec; did any one else join your party?—A. I believe the contractors came up.

Q. The contractors came? What contractors?—A. The contractors on the work.

Q. What are their names?—A. There were several of them. I don't know; I don't remember their names now.

Q. Did any other engineers join you down there?—A. Well, Mr. Woods came and Mr. Armstrong.

Q. Mr. Woods is assistant chief engineer?—A. Assistant chief engineer for the Grand Trunk Pacific.

Q. And Mr. Armstrong is what?—A. Inspecting engineer for the Grand Trunk Pacific at Quebec, and there were several of Mr. Doucet's engineers.

Q. Was his assistant district engineer there?—A. Yes, Mr. Huestis.

Q. And Mr. Hervey?—A. Mr. Hervey was there, and Mr. Davis from Quebec. Mr. O'Brien, I think, was there.

Q. He is a contractor, is he not, or engineer?—A. A contractor. Either Mr. Macdonald or Mr. O'Brien.

Q. Yes. Was Mr. Davis there, do you know?—A. Mr. Davis was there.

Q. Then, there were the commission, yourself and the other district engineers?—A. The district engineers and some of the contractors.

Q. The district engineer was there and some of his assistants?—A. Yes, there was a large party.

Q. Did you get out and go and make an examination of any of the work?—A. I examined this large cutting.

Q. Did you go right through it?—A. It was not through. I went into one end of it, and then I walked over the upper portion of it and down to the other side.

Q. Now, just describe the cutting?—A. The western end, I think it was, we first came to was a mass of loose rock, boulders—I did not see any very large ones, a very nasty looking cutting—and on the upper portion of it there was some sand, wet sand, and loose rock. That was being wasted in carts or scrapers—carts, I think—and the other end of it was loose rock. I did not see any solid rock in place.

Q. You saw no solid rock in place?—A. I asked the engineers how they classified it.

Q. What engineers?—A. Mr. Doucet, and he said 85 or 86 per cent.

Q. He said 85 or 86 per cent?—A. I thought he meant loose rock.

Q. You thought what?—A. I thought he meant loose rock.

Q. Yes. From what you saw how would you have classified it?—A. Well, I did not examine it enough to give an opinion on that.

Q. From what you saw what would be a fair and proper classification?—A. Well, I spoke afterwards to Mr. Armstrong about it.

Q. Yes?—A. And I asked him if it was—there some remark one of the contractors made which made me ask Mr. Armstrong if it was 86 per cent solid rock or 86 per cent loose rock, and he said 86 per cent solid rock.

By Mr. Barker:

Q. Who said that?—A. Mr. Armstrong.

By Mr. Hodgins:

Q. Yes?—A. Then I asked him what his company were going to do about it. He said he did not know. I said: 'It is a pretty heavy percentage,' and he said: 'Yes.'

Q. Then, what further? Was that before or after you got through the whole cutting?—A. We had walked through the cutting.

Q. Yes?—A. And I made some remark about the chance or the possibility, of getting a line around it, and avoiding such a heavy cut. It had really been laid out as a tunnel, but when they found there was no solid rock in place they abandoned the tunnel idea and took it as an open cut.

Q. As an open cut?—A. And classified it as 86 per cent of solid rock, so I was told.

Q. I ask you again what was a fair classification?—A. I asked Mr. Armstrong, we looked at it, it would take a lot of estimating and measuring, and he said, forty per cent would be about a pretty liberal measurement. I could not really give an estimate of it because I do not know how much boulders were in it, there was very little work on it, and we were not there more than 10 or 15 minutes.

Q. Can you say whether 86 per cent was a fair or unfair classification?

Mr. Murphy.—You are leading the witnesses; he said two or three times he could not give the classification.

Mr. Hodgins.—That is his estimate of classification—I am now dealing with a totally different thing. I am asking him whether 86 per cent is a fair or unfair classification, that is of solid rock.

A. 86 per cent seemed to me a very extravagant classification.

By Mr. Murphy:

Q. That is your opinion on a 10 or 15 minutes inspection?—A. Yes.

By Mr. Hodgins:

Q. Just describe what the cutting was so far as you saw it; it was open and consisted of?—A. Loose rock, cemented material, sand, wet sand, and boulders; I was told the largest boulders they had come across so far was a boulder of about 200 yards in size, one of the engineers told me that.

Q. That is 200 cubic yards?—A. 200 cubic yards.

Q. You were in there, from where it was open to the other end?—A. Yes, we walked all through it.

Q. Was there any difference in formation, so far as you could see, at the other end, from what you saw at the open end?—A. It was evidently a slide come down from the side of the hill, of course I do not know whether they had any solid rock in it or not.

Q. Not where it wasn't opened up, of course. Then did you continue your examination further?—A. No, we walked on towards one of the contractors' houses.

Q. Yes?—A. And met the rest of the party.

Q. Did you have any conversation then with them, or with any of the party, with the commissioners, with regard to the classification? Or with anyone else?—A. When we were going away I went to Mr. Lumsden—the train had stopped, and we went off to some little fishing hut which was near there, waiting, and I wanted to hear what he had to say. I asked him if a certain piece of work I had seen there was to be taken as standard. I referred to a large house that Mr. Armstrong told me was being built for the division engineer, and I said to Mr. Lumsden, 'I saw a house down on the line, is that house to be taken as standard'? He turned away and said, 'I don't know anything about it.'

Q. Did you say anything to him about this La Tuque cutting?—A. No, he gave me to understand, by his way, that he did not want to discuss anything and I went off.

Q. So you went off. Then you came back to Quebec, I suppose, with the party; or did you come?—A. No, I stayed down there over the Sunday.

Q. You stayed down there over the Sunday?—A. Yes.

Q. Did you meet any of the party in Quebec?—A. The party went off, they all went away except the Quebec men.

Q. Did you have any talk with any of them?—A. Yes, I saw Mr. Armstrong.

Q. Is that the Grand Trunk Pacific engineer?—A. Yes.

Q. Did you have any conversation with him?—A. We had a long talk about the work generally.

Q. Did you discuss with him the La Tuque cutting?—A. Yes.

Q. Did you discuss the classification upon that division, district B?—A. Yes, we had a long discussion about various things.

Q. What was said?—A. You had better get Mr. Armstrong to tell you.

Q. You give us your version of it?—A. He said the classification was very high, and I said, 'What are you doing about it'? He said, 'I am reporting it to my people.' I said, 'What are they doing'? and he replied that he did not know, that they hadn't done anything just yet. I said, 'Is there very much more classification of that kind?' And he said, 'It is pretty general all over the district.' I said, 'Are you going to dispute it?' and he said he presumed they would. I asked him what it was going to amount to in Quebec and he said he hadn't made a very close estimate of it, but he was pretty certain that it would amount to nearly two million dollars, that his company would object to.

Q. To nearly two million dollars. What did he say would amount to two million dollars?—A. The difference in what we called 'over-classification' then.

By the Chairman:

Q. In one district?—A. In the Quebec district.

By Mr. Hodgins:

Q. In District B. From what you saw in Quebec, in that district, were you prepared to adopt that standard of classification as applying to your district?—A. No—what I saw and heard.

Q. What you saw and heard. Did you have any conversation after your return with any of the commissioners on the subject?—A. Not on that trip. I went up and went back to work.

Q. You went back to your own work?—A. Yes, to Kenora. I did not see them again—oh, yes, I went to Ottawa and I saw Mr. Lumsden, I think, I do not know whether I saw any of the commissioners. He asked me or told me to go back and go over the work with Mr. Grant, and I refused point blank to go over the work with Mr. Grant.

Q. Mr. Grant had not then gone out?—A. He was going.

Q. Did you discuss the Quebec classification with him?—A. No.

Q. Did you have any talk with any of the commissioners about the Quebec classification after you returned home?—A. I do not think so, in Ottawa.

Q. You did not think so, in Ottawa?—A. No, I had none.

Q. Did you afterwards, after Mr. Grant had been all over your district?—A. I do not know whether I discussed Quebec classification, I discussed what classification I would not allow on my work.

Q. With whom did you discuss that?—A. I think with the board.

Q. With the board?—A. I am not certain. The minutes of the meeting—everything that was said at the time was taken down in shorthand, but I have never seen the report.

Q. What was the date of that meeting?—A. It was the time I went down to answer about Mr. Grant's charges.

Q. About Mr. Grant's charges, that was the day you were present before the board?—A. Yes.

Q. According to the records, as far as I can see, that was on the first of August, because I see on the 31st of July you and Mr. Grant were notified of the meeting, to appear before the board on the first of August?—A. Yes.

Q. Then you and Grant were before the board on that day and you say that everything was taken down in shorthand and you have not seen it since?—A. No, with reference to that question about discussing classification I told several of them afterwards—

Mr. CARVELL.—Now Mr. Hodgins——

The WITNESS.—I think it is immaterial.

Mr. CARVELL.—Just confine your evidence, please, to what took place between the commissioners and the engineers.

By Mr. Hodgins:

Q. Speaking of that interview on the first of August when you were before the board was the question of classification that you were to adopt discussed?—A. I cannot say from memory. I have never seen the notes. A great many questions were discussed then.

Q. Then we will get back to your interview with Mr. Lumsden when he requested you to go out with Mr. Grant and you refused?—A. Yes.

Q. That would be towards the end of June would it?—A. Just after the trip from——

Q. Just after the trip?—A. From Quebec. I think I came up from Quebec on a Monday to Ottawa and left——

Q. Did Mr. Lumsden tell you what instructions he had given to Mr. Grant?—A. I asked him whether we were to take instructions from Mr. Grant and he said no. Mr. Grant had been appointed against his wish and he would see that he did not give any instructions to the engineers.

Q. He would see that he would give no instructions to the engineers. That is to any of the engineers that were on the line?—A. Yes, and I believe he sent a letter out to that effect.

Q. But did he tell you what his instructions to Grant were, what Grant was to do?—A. Yes, he said that Grant was to go over the line and report to him.

Q. And report to him. Then you went from there back to Kenora, I suppose?—A. Kenora.

Q. To your office?—A. Yes.

Q. And what were you doing between that time and the time that Grant's report was sent to you, or rather I will put it down to the time the July estimates reached you at the end of July? Were you in Kenora or down in Ottawa, or where were you?—A. What date was that?

Q. After you got back in June and went up at the end of that month to Kenora. You were back again in Ottawa. You were in Ottawa on the 31st July, because your

reply to Grant was dated at Ottawa on that date?—A. Do you mean after I saw Mr. Lumsden in Ottawa and went back to Kenora?

Q. Yes?—A. I went out on the line. I think I met Mr. Grant in my office.

Q. Did he finish his inspection then?—A. I don't remember.

Q. You don't remember?—A. And I went down to Ottawa after that.

Q. You went down to Ottawa after that? Now, what took place between you and Mr. Grant in your office at Kenora?—A. We discussed the question of classification.

Q. Yes, and what was said about it?—A. He said that the Commissioners wanted the contractors to make money.

By Mr. Murphy:

Q. What was that?—A. The commissioners wanted the contractors to make money and not have any disputes up there. I said: 'That is very pleasant. How do they propose to do it?' He said: 'The only way to do it is to classify them out of the hole.'

By Mr. Hodgins:

Q. The only way to do it was to classify them out of the hole. Yes?—A. I said: 'There is very little to classify on this district.'

Q. Yes?—A. 'It is nearly all solid rock. You cannot classify that any higher'; and I showed him that if I turned all the common excavation that had been returned on the division, outside the prairie, into loose rock, it would not amount to more than $400 a mile. So the classification of my district was at that time a very small amount.

Q. That is the classification outside of solid rock?—A. Yes.

Q. Well, then, what further took place?—A. He said he knew that, but in Quebec it was different, there was more material to classify in Quebec.

Q. Yes, well?—A. I said: 'From what I have seen there and heard, there will surely be a scandal over the Quebec classification.' He said: 'No, there won't. There never will be any inquiry into it.'

Q. Yes?—A. I thought he was talking pretty wild.

Mr. MURPHY.—We cannot hear the witness.

The WITNESS.—I thought he was talking pretty wild. He left the office about that time, and I walked with him as far as the corner. Then I turned down to my house and he went on to the hotel.

By Mr. Hodgins:

Q. Now, was there anything said about La Tuque?—A. Yes.

Q. What was said ?—A. I asked him about the classification there, and he said it was 86 per cent. Originally he said the engineers put it at about 30.

Q. About 30? What engineers did he refer to?—A. The engineers on the work, and he had been sent over the line to re-classify the whole district.

Q. Yes?—A. He had raised it to 80.

Q. He had raised it to 80? Well?—A. And that the Grand Trunk Pacific engineers kicked, and it was raised to 86.

Q. When they kicked it was raised to 86?—A. Yes. I said: 'That is a pretty expensive kick.'

Q. Did he give any explanation as to why it was raised to 86?—A. I did not ask him very much more.

Q. Now, that was some time in July?—A. He had either finished his inspection of the district or was going over another portion of it.

Q. Did he discuss with you the matters which appeared in his report subsequently?—A. Oh, no.

Q. Did he ask for any explanations from you?—A. He said something about a drain or a ditch that had not been paid to a certain sub-contractor named Guy Campbell, I think, and I said that I had seen about that.

Q. You had seen about that?—A. Yes; McArthur said there was only the amount of about $3,000.

Q. Yes?—A. And I had given instructions to have the engineers——

Q. You had what?—A. I had given instructions to the engineers on the work—on this contractor's piece of work—to measure up what the abandoned work was, and some houses, and it was adjusted next month.

Q. It was adjusted next month? Outside of this, did he discuss at all with you the matters which appeared in his report subsequently that month?—A. No.

Q. You did not?—A. He said something about Mr. McIntosh being a good man to classify.

Q. He said something about what?—A. About Mr. McIntosh. I had recommended that Mr. McIntosh be appointed assistant district engineer and he said he was going to recommend him when he got down to Ottawa.

Q. Yes, what did he say about his capacity, or his qualification?—A. He said that he apparently seemed alive to the affairs of his division, that he was very pleased with him; he said he was a very good man and praised him up, and I told him I thought he was.

Q. Did he say anything about the other engineers on your division?—A. No.

Q. He said nothing about them?—A. Not that I remember.

Q. You have gone over his report carefully?—A. Yes.

Q. Have you given us now all that took place in that interview with him regarding any matters which afterwards appeared in the report?—A. As far as I can remember, yes.

Q. Then he made his report, when did you first see it?—A. After I came to Ottawa.

Q. How did you come to go to Ottawa?—A. Mr. Lumsden wired me to come down.

Q. Do you remember the day you got there?—A. No.

Q. How soon before the 31st of July, when you put in your answer?—A. I had just arrived, probably the day before.

Q. Had you your record with you?—A. Nothing.

Q. You had nothing with you, and your answer was put in then, under these circumstances?—A. Yes.

Q. The 31st of July is the date of the letter, you were here the day before, and you were asked to appear before the board on the following day?—A. Yes.

Q. And you did so?—A. I did.

TUESDAY, May 19, 8.30 p.m.

The examination of MAJOR HODGINS resumed.

By Mr. Hodgins:

Q. I want to question you about an interview with Mr. McIntosh after Mr. Grant was in your office in Kenora. Who did you see after he went away on the following day?—A. After Mr. Grant's interview?

Q. Yes?—A. Mr. McIntosh.

Q. And what took place between you?—A. He said to me 'You have always been a good friend to me and I want to give you a piece of advice. I advise you to fall in line with what the commissioners want. It is no use bucking up against them about classification.'

Mr. CARVELL.—I do not want to raise objections but I do not think we are here for the purpose of taking evidence about what some man may have said to Mr. Hodgins unless you connect it with the commissioners. Therefore, I am going to object.

Mr. HODGINS.—It is a matter of inference, I suppose.

Mr. BARKER.—It cannot affect the Commissioners unless Mr. Hodgins goes further.

Mr. CARVELL.—I am going to object to this kind of evidence being given at all.

Mr. BARKER.—Supposing Mr. Hodgins were going on to connect the matter with anybody, the chief engineer or anybody else, he must prove this first. It is not bringing any charge against the commisisoners.

Mr. CARVELL.—As you very well know, in an ordinary case a judge would say, 'Gentlemen of the jury I rule this out entirely.' But this thing goes to the country and Major Hodgins a fortnight from now will say 'I thought I could connect the commissioners but I failed.' The damage will then have been done. Mr. Hodgins knows this is not the proper way to carry on an investigation.

Mr. BARKER.—I certainly do not know it.

Mr. CARVELL.—I know it and I am surprised that you do not. I would not want to make a confession like that if I were you.

The CHAIRMAN.—Certainly I think it is not quite regular to have the witness saying what this person or that person may have told him. There may be no end to it.

Mr. CARVELL.—Certainly not.

The CHAIRMAN.—He may want to tell what fifty or a hundred persons may have told him.

Mr. CARVELL.—Supposing this man goes and tells Mr. Hodgins something which the commissioners may not have told him. You are putting that forward as evidence against the commissioners. All I can say is that I protest against this kind of evidence being given.

Mr. BARKER.—All right make your protest. If the Chairman chooses to rule it out it won't be given.

The CHAIRMAN.—I will let Mr. Hodgins proceed for a while longer but I am afraid I will have to rule the evidence out if he goes too far.

The WITNESS.—I won't say anything more, sir.

The CHAIRMAN.—We cannot have these insinuations as to what this person or that person may have told some other person who told him about it.

Mr. HODGINS.—I may just as well state, there is no secret about it, the circumstances and the reason why I wanted to ask the question. I have shown the discussion with regard to the appointment of Grant, why he was appointed, that he went over the work, that he came in and discussed the question of classification and recommended McIntosh. I propose to ask what information was conveyed to Major Hodgins by McIntosh immediately after Grant had left.

Mr. CARVELL.—Well, I certainly object to it.

Mr. MURPHY.—The major has told us that he had previously recommended McIntosh himself.

Mr. BARKER.—Certainly.

Mr. CARVELL.—We cannot have what McIntosh may have told Hodgins, or any chit chat of men on the work unless the commissioners are connected with it.

Mr. HODGINS.—I certainly thought that evidence was to be given relative to what was said.

The CHAIRMAN.—I think you will have to connect the commissioners directly with any conversation which may have been had with Major Hodgins or anybody else.

Mr. CARVELL.—Evidence of this kind is secondary evidence and not proper evidence.

Mr. HODGINS.—Do I understand the ruling of the committee to be that this is merely an investigation to ascertain how far the commissioners may be affected and not an enquiry in the public interest into what took place in connection with District F and the classification thereon?

The CHAIRMAN.—In a court of justice the judge would not entertain testimony showing that a certain person, or a witness, had a certain conversation, without connecting that with one of the principals. I don't think any court of justice would do it.

Mr. HODGINS.—What I am disputing is that there are any principals in this matter. I think I have a right to go into the suggestions of the parties for the purpose of showing from whom they emanated.

The CHAIRMAN.—I do not want to rule you out of order just now. Later on if it goes too far I will have to stop you.

Mr. PARENT.—Mr. Chairman, we would like you to give these gentlemen all the chance possible to prove their case. We are here and as far as we are concerned we wish to let Major Hodgins say what he pleases.

Mr. CARVELL.—Even with that I want to see this investigation held down somewhere to proper limits or else we shall get into trouble by departing from the proper rules of evidence.

Mr. BARKER.—Some members seem to be treating this case as a court martial against Major Hodgins. I have said over and over again that if Major Hodgins retired from the case and refused to go on with it we would ourselves continue the investigation and probe it to the bottom.

The CHAIRMAN.—We must have some rules of evidence.

Mr. BARKER.—This is no trial of anybody. It is in the public interest.

Mr. CARVELL.—It is going to be very close to a trial of the commissioners.

Mr. BARKER.—You are making it that.

Mr. HODGINS.—What rules of court are to govern?

The CHAIRMAN.—The ordinary rules of court.

Mr. HODGINS.—I was given the Nova Scotia and New Brunswick rules of court as the practice for not getting the papers I asked for.

The WITNESS.—I would rather not repeat the conversation.

Mr. BARKER.—It is not a question for the witness, he has got to answer the questions put to him.

Mr. CARVELL.—We will see. Go on with your questions.

The WITNESS.—I won't say anything more, gentlemen.

Mr. BARKER.—If Mr. Hodgins does not choose to answer I will put the question and have it answered. We are not going to have any witness come here and say that he won't answer.

Mr. HODGINS.—I don't think Major Hodgins takes that position at all.

The WITNESS.—I would rather not answer.

Mr. HODGINS.—If Major Hodgins says he would rather not answer, I, as his counsel, feel, under those circumstances, I would rather not ask him to do so.

Mr. BARKER.—I will put the question if you will not.

Mr. CARVELL.—The question has been answered.

Mr. BARKER.—If it has been answered that is enough. I would like to have the last question put to Major Hodgins and his answer to it read by the stenographer.

Question and answer read by the stenographer.

By Mr. Barker:

Q. Is that all you have to say upon that point?—A. That is all I have to say.

Mr. CARVELL.—You could not have been listening, evidently.

Mr. BARKER.—I thought there was something more, that Major Hodgins had not finished his answer, and I wanted to get the whole story.

The WITNESS.—That is all I have got to say.

By Mr. Hodgins:

Q. Will you look at the progress estimates for July, 1907. Those are signed by whom?—A. Mr. McIntosh, division engineer, and Mr. Miller, resident engineer.

Q. You find attached to that a typewritten page as a supplement to form 4?—A. Yes.

Q. Residency 25, division 6, showing the amount of material previously returned as common excavation and loose rock now transferred to solid rock?—A. Yes.

Q. Did that accompany the original progress estimate?—A. That accompanied that estimate.

Q. I do not see that that is signed, that copy?—A. Yes, there has been a signed copy sent down.

Q. There was a signed copy sent down?—A. Four or five copies signed and sent in. Four, I think.

Q. Then you sent these down with a letter to Mr. Lumsden, chief engineer?—A. Yes.

Q. Before I pass from this supplement to form 4, that contains, as I read it—you will tell me whether I am right—the items of yardage taken from common excavation and from loose rock and transferred to and added to the solid rock?—A. Yes.

Q. Now, how many yards of common excavation are transferred to solid rock by that?—A. 875.

Q. And how many of loose rock?—A. 4,980.

Q. Making a total of 5,855 yards? That would make on that estimate alone a difference of how much, roughly speaking?—A. Of $6,000 or $7,000.

Q. It is estimated here at $6,703. Do you know whether that is correct or not?—A. No.

Q. Now, looking at the progress estimate itself. Take Anderson and Johnson. What are these, stations or miles?—A. Stations.

Q. Station 3,517 to 18, what do you find there for solid rock?—A. 1,100 yards.

Q. What do you find for loose rock and common excavation?—A. Nothing.

Q. Nothing? Is there any evidence of an alteration there?—A. Yes.

Q. Can you tell, from looking at it, what it was?—A. No.

Q. You cannot tell?—A. No.

Q. Then take 3,523 to 3,520, what do you find for solid rock?—A. 4,220.

Q. Anything for common excavation and loose rock?—A. No.

Q. Any evidence of alteration?—A. An alteration in common excavation.

Q. I want you to take those items and see what the previous progress estimate was. Trace those items back, please. I want to see how early those have been made, the common excavation and loose rock, before the transfer took place?—A. What is the station?

Q. Take 3,517 for June. How does it appear in the June estimate?—A. 900 yards of solid rock, 50 yards of loose rock, 150 yards of common excavation.

Q. Now, go back and see how far back that extends, that same classification. Just look in May and in April?—A. May, 750 yards solid rock, 50 yards loose rock, 150 yards common excavation.

Q. How many yards of solid rock?—A. 750.

Q. I see it appears as 900 in June. Then take April for that same station, 3,517 to 18?—A. 250 yards solid rock, 50 yards loose rock, 150 yards common excavation.

Q. Then, that loose rock and common excavation is the same back to April?—A. Yes.

Q. And March, how do you find that?—A. 250 yards solid rock, 50 yards loose rock, 150 yards common excavation.

Mr. MURPHY.—Is that the same?

Mr. HODGINS.—Much the same.

The WITNESS.—Excepting the solid rock. In the solid rock there is a decrease.

By Mr. Hodgins:

Q. The solid decreases as you go back, I suppose?—A. The solid decreases, yes.

Q. Then take February, how do you find it?—A. 150 yards solid rock, 50 yards loose rock, 150 yards common excavation.

Q. Then take January, how do you find it there?—A. No solid rock, 50 yards loose rock, 150 yards common excavation.

Q. Then December, 1906, what do you find there?—A. No solid rock, 50 yards loose rock, 150 yards common excavation.

Q. Then, am I right in saying that that appears from December right on to be the same for loose rock and common excavation?—A. Yes.

Q. Does that mean that they were classified in December, or earlier, just in that way and so remained down to June?—A. So remained down to June, yes.

Q. And is the December one signed by McIntosh?—A. Yes.

Q. What is the custom? Do you require them to be signed by the resident engineer and the division engineer?—A. The resident engineer and the division engineer.

Q. Now, do you know any reason why those items, classified as far back as December, 1906, as common excavation and loose rock, should be made into solid rock in July, six months afterwards?—A. No.

Q. Did you go over the work with regard to those two items?—A. Yes, I went over it twice.

Q. You went over it twice? Did you find out what those items referred to?—A. I did not make a very thorough examination the first time.

Q. Well, the second time, then?—A. Yes.

Q. What did you find?—A. I found it was common excavation and loose rock according to specification.

Q. Was that report to Mr. Lumsden, chief engineer?—A. Yes.

Q. Now, take up the next item?—A. Are you going over them all?

Q. Yes, I am going over them all but I am trying to shorten them up as much as I can. Now take station 3523.

Mr. BARKER.—I think you had not completed the history of that. He said he looked over it twice, what was the result of his investigation?

Mr. HODGINS.—I was going over all these items, but I will complete this if you wish.

By Mr. Hodgins:

Q. After your inspection what action did you take in connection with it?—A. Cut it out of the estimates—I passed it in the first estimate that came.

Q. Yes, in July?—A. When I got this statement I had not been out to see it, and I told Mr. Lumsden about it, I met him in Winnipeg a few days afterwards, and said I was going out on the work to inspect it.

By Mr. Barker:

Q. You inspected this section that you have just been speaking of?—A. Yes.

By Mr. Hodgins:

Q. Then we have the August estimates here.

Mr. BARKER.—Did he inspect it.

Mr. HODGINS.—Oh yes.

Mr. BARKER.—He hasn't said so.

Mr. HODGINS.—Pardon me, he said he was out and saw it twice.

Mr. BARKER.—I want to know what he saw.

Mr. HODGINS.—Well, I will ask him so as to make it clear.

By Mr. Hodgins:

Q. When you went out to inspect and go over this work what did you find, these items of 50 yards and 150 yards to be properly under the specification?—A. Common excavation and loose rock.

Q. Then I produce and show to you the original estimates in August. Will you look at these, they are signed by McIntosh?—A. Yes.

Q. How were they returned to you in August?—A. The same way as they were returned the previous month.

Q. That is what?—A. Is this the one? (Indicating return).

Q. Yes, 3517?—A. 1,100 yards of solid rock, no loose rock, no common excavation.

Q. What change did you make in that estimate before you sent it in?—A. I changed, or had it changed back to what it had been previously.

Q. And it so appears in red ink upon this original estimate for August. Now, I will put in this letter.

EXHIBIT No. 6.

No. 541. KENORA, ONT., September 14, 1907.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—With reference to the changing of classification on Mr. McIntosh's division, Res. 25 in the July estimate.

Sta. 3517, 150 cu. yds. com. ex. was returned in April last and 50 yds. of loose rock was also returned in that month. This is still the material originally returned and cannot be made into solid rock no matter how liberal the classification is.

The same can be said of 200 yds. com. ex. returned in April in cut 3523-70.

Cut 3972-54. 70 yds. com. ex. returned in Jan. last 40 yds. loose rock returned in the same month. This consists of a little stripping and a little mixed material at the mouth of the opening. This item is small, but there has been some waste in this cutting. I do not see how any extra liberality can be made in the interpretation of the specifications, to call this mixed material solid rock.

Cut 4009-14. There is altogether too much waste in this cutting, even if it were possible to consider 400 yds. loose rock as 400 solid rock. The waste in this cutting is certainly deliberate. There is a small amount of overbreak. The bank made up from this cutting is very wide in places, showing carelessness on the part of the sub-contractor or station men.

Sta. 4027-33. 100 yds. com. ex. and 1,060 yds. loose rock were transferred under the heading of solid rock. This is stripping. You will see from the progress profile that it overlies the solid rock.

Sta. 4076. 30 yds. com. ex. and 830 yds. loose rock, transferred to 860 yds. solid rock. There is a pocket of pure sand in this cut, which in my opinion is a stretch of imagination to call loose rock. The 30 yds. com. ex. occurs at the west end of the cutting and was returned in Feb. as com. ex.

Sta. 4143-39. 50 yds. com. ex. 200 yds. loose rock, east end and 90 yds. com. ex. west end, transferred to solid rock. This is a very bad cutting and has been classified very liberally in loose and solid rock. The solid rock consisting of boulders. Mr. McIntosh informs me that he classified this to show a profit of $600 on Mr. McArthur's prices to date. It is impossible to estimate the amount of boulders. The east end of this cutting, Sta. 4143, has a gravity track and loaded cars run down themselves; a single horse pulls them up. There are five men shovelling in this cut and two cars. Owing to the length of time it takes the horse to pull the empty car back to the pit, I noticed the men were idle most of the time I was there. However, this cutting shows a profit on Mr. McIntosh's classification.

Sta. 4162-82. 820 yds. loose rock transferred to solid rock. Here there is more sand than loose rock showing. Mr. McIntosh informed me he increased the solid rock in order to bring it to a profit to the contractor at Mr. McArthur's prices.

Sta. 4178-58. 120 yds. com. ex. transferred to solid rock. There have been 5,250 yds. loose and 1,700 yds. solid rock returned in this cutting. It is more a loose rock cutting than a solid rock cutting, and if it is permitted to transfer 120 cu. yds. into solid rock, there is no reason why the balance of the cut should not be treated in the same way. The solid rock in this cutting consists of boulders. The cut is a little wet. No com. ex. has been given. Mr. McIntosh acknowledges the classification high, and said he had to do this in order to keep the men at work.

Sta. 4190. 550 yds. loose rock transferred to solid rock. This was excavated in February. I can see no reason why it should not still be called loose rock. It certainly is not solid rock.

Sta. 4201-37. 65 yds. com. ex. and 900 l. rock transferred to solid rock. Mr. McIntosh informs me that all the stripping in this cutting is returned as solid rock, although it might rightly be called loose rock. 50 per cent of this stripping returned

APPENDIX No. 5

as loose rock and the balance solid will be, in my opinion, extremely liberal classification. The difficulty in Mr. McIntosh's classification is that he has gone beyond the limits of liberality. In this cutting the stripping is no use in a rock bank and should have been wasted. The portion taken out this summer is only about 3 ft. deep.

Sta. 4213-42. 50 yds. loose rock transferred to solid rock. The item is very small and is hardly worth considering.

I am of the opinion that if all the common excavation referred to in the above cuts were returned as loose rock, the loose rock left as previously returned, the contractors would be very liberally dealt with.

With reference to the cutting station 4240 and 4250, between these cuttings there is a fill, and some juggling has been going on in the estimates for the last month.

Mr. McIntosh ordered that 2,700 yds. of loose rock in the cut near Sta. 4240 should be turned into solid rock in the month of July, and in cutting starting at 4250 the same number of yards was returned as loose rock instead of common excavation, which it surely is, being the finest sand cut that can be found on the line. This should not have occurred, and I report the matter to you to deal with.

I have also to report to you that Mr. McIntosh allowed his resident engineer on Res. 25 to add some 660 yds. to the estimate on cutting 3848, west of the Wabigoon river. The resident engineer did this to cover up the extravagant classification that he had given to station men when they were quitting. The men have gone away, and unless the same men come back to work this out, this cut will be estimated to contain 660 yds. more than has been taken out, to say nothing of the very liberal classification in loose rock, being a clay cutting, with the exception of a little lump of solid rock encountered near the mouth.

The last time I was over Mr. McIntosh's works I found at Sta. 3400 to 3402, mile 64, that some 900 yds. pure muskeg had been returned as solid rock. The resident engineer informed me that this muskeg was taken out by station men and the contract paid them 23 c. a yard. It was wasted to the side. The reason for returning this as solid rock, claimed both by Mr. McIntosh and the resident engineer, was that it was a pocket in a rock cut. I ordered Mr. McIntosh not to let this sort of thing occur again, and to return it and classify it correctly. The resident engineer estimated the day I was there that some 1,800 yards of muskeg had been taken out to date, and he would have returned all this as solid rock if I had not stopped him. You can conclude from this what sort of classification has been made on Mr. McIntosh's division since the June estimate went in.

Mr. McIntosh claims that he was not influenced by Mr. Grant's remarks, but something has influenced him to classify in this extravagant and improper way.

It is to be noticed that he is the only engineer picked out by Mr. Grant as one capable of classifying properly, and Mr. Grant suggested to me that Mr. McIntosh be appointed assistant district engineer, with headquarters at Winnipeg river, and that the whole of the classification in this district be left in his hands.

Under ordinary circumstances Mr. McIntosh should be discharged, but as something has influenced him to classify in this extravagant way, I thought it better to refer the matter to you rather than deal with him myself.

If common excavation and loose rock are to be humped wholesale into the column for solid rock against my orders, I wish to be relieved of all responsibility.

I told all the engineers to be as liberal as they possibly could in the classification of mixed material, and always to give the contractor the benefit of the doubt if any sort of argument could be used to classify this material as loose rock, but they must strictly draw the line in returning solid rock where solid rock does not exist.

Yours truly,

A. E. HODGINS,
District Engineer.

Q. Now will you take the next item, Stations 3523 to 3520, 200 yards common excavation?—A. What month?

Q. Just take that in July, that is 3523 to 3520. Is there any common excavation or loose rock in that?—A. No.

Q. There is not, now have you traced that back? That item of 200 yards of common excavation, transferred to solid rock, back through these estimates?—A. Yes.

Q. Now, just let us see if we can find that in December, instead of going through all these returns?—A. I do not think it is in December, I think it is in January.

Q. It is in December, is it?—A. No, in January.

Q. In January, 1907?

By Mr. Murphy:

Q. What is in that?—A. In January, 1907, 200 yards of common excavation, no loose rock, 800 yards of solid rock.

By Mr. Hodgins:

Q. Is that 200 yards of common excavation carried down through the estimates from January down to July without change?—A. Yes.

Q. Then did you, in your inspection, investigate that item?—A. Yes.

Q. And did you report upon that?—A. Yes.

Q. To Mr. Lumsden?—A. I did.

Q. What did you do with it in the August estimate?—A. I put it back into common excavation—put 200 yards back into common excavation.

Q. What should it, in your investigation, properly have been classified at?—A. Common excavation.

Q. Do you know any reason why, after having remained in the estimates from June to July as that, it should have been changed in July?—A. No.

Q. I see this is changed in red ink in the August estimate, put back?—A. Yes.

Q. Now, will you take the next item of 70 yards common, and 40 yards loose rock in 3972 to 3969, how far back will these items go?—A. That began in December, the common excavation, there were 40 yards of common excavation returned for that cut in December.

By Mr. Murphy:

Q. How much 'loose'?—A. There was no loose returned until January. In January there were 30 yards of common excavation, that made up the 70.

By Mr. Hodgins:

Q. That makes up the 70, and in January appears 40 yards of loose rock?—A. 40 yards of loose rock.

Q. That is the item, does that go through the estimates from then on until July?—A. Yes.

Q. Did you investigate that?—A. Yes.

Q. What did you find that ought to be, at your investigation?—A. Put back where it had been originally.

Q. And in this August estimate did you do so?—A. Yes.

Q. I think I asked you if there was any reason why it should have been changed in July, but there is no harm to ask it again?—A. No.

Q. Now, can you tell me the next item, 400 yards of loose rock in 4009 and 4014; when did that first come in?—A. I haven't a note of that here, I will have to look that up—in January.

Q. In January, 1907?—A. No, there is nothing returned in January, 4009?

Q. 4009?—A. 150 yards of solid rock returned in January—4009, 400 yards of loose rock

Q. Do you find it?—A. No loose rock returned for that cut in January—now, wait——

Q. Perhaps you can find it in your letter what that was?—A. 4009 to 4014 in June, 400 yards of solid rock returned.

Q. Yes, in the June estimate. Now how do you find it in the July estimate for 4009? What was the solid rock in the June estimate?—A. It had 200 yards of solid rock returned and 400 yards of loose.

Q. Now, look at the July estimate?—A. 4009 to 4012—4,770 solid, no loose, no common excavation.

Q. That 400 has disappeared, that has been transferred apparently according to this?—A. Apparently.

Mr. BARKER.—Transferred from what?

Mr. HODGINS.—From loose rock to solid.

By Mr. Hodgins:

Q. Did you investigate that?—A. Yes.

Q. Did you report that to Mr. Lumsden?—A. Yes.

Q. Just look at this letter and see what the explanation is? See if you can make that anything clearer to us, I do not understand it.

Mr. MURPHY.—What letter is that?

Mr. HODGINS.—That is the letter, Exhibit No. 6.—A. Can I have the profile?

By Mr. Hodgins:

Q. Yes, if you want it; can you make it out from reading that letter, or do you want the profile?—A. Oh, never mind about the profile.

Q. What is the explanation of that?—A. (reads) '4009, there is altogether too much waste in this cutting, even if it were possible to consider 400 yards of loose rock as 400 yards of solid rock. The waste in this cutting is certainly deliberate, there is a small amount of overbreak, and the bank made up from this cutting is very wide in places, showing carelessness on the part of the sub-contractor or station men.'

Q. Then what did you do with that in the August estimate?—A. I put it back in the August estimate into loose rock.

Mr. BARKER.—I understand the witness is reading, I would like to know whether he says upon oath that what he did is correct.

By Mr. Hodgins:

Q. Well, I will ask him. How did you find upon your examination that ought to be classified?—A. I can only speak from notes.

Q. Quite so?—A. I haven't got the whole thing in my head; here are the notes I took.

By Mr. Carvell:

Q. Were the notes made as the result of personal examination, or from information given you by someone else?—A. Personal examination; here are the notes I made on the back of this paper, on the work.

By Mr. Murphy:

Q. When?—A. At the time I was inspecting it.

Q. When was that?—A. I should think between September 12th and 14th, according to this letter. I wrote this letter on the 14th, I had just come in from the work.

By Mr. Hodgins:

Q. Then what do you say? You are entitled to look at your notes, I think. How do you say that 400 cubic yards should be classified?—A. As loose rock.

Now, look at the next item, please; that 4027 to 4033, 100 yards common excavation, and 1,060 loose rock transferred to solid. Now can you tell where these items—take that item of 100 yards—where that first appeared?—A. It was in February March, April May and June estimate.

Q. I see, then take 1,060 loose rock transferred?—A. They began that work in January.

Q. Yes?—A. There was 50 yards of loose rock returned that month, 650 in February, 1,250 in March, 1,340 in April, 1,760 in May, 1,950 in June and 900 in July.

Q. That is, as I understand it, that it had been classified from month to month as loose rock to the extent of 1,960 yards?—A. Yes.

Q. Of which 1,060 yards were transferred in July?—A. In July.

Q. To solid rock?—A. And 900 was left in the loose rock column.

Q. Now, did you investigate that?—A. I investigated the whole thing.

Q. And how did you find that that ought to be classified?—A. As it had been classified originally.

Q. And did you disallow that, or transfer it back in the August estimates?—A. I transferred it back in the August estimates. I did the whole of these.

Q. Did you report that to Mr. Lumsden in the August estimates?

Mr. MURPHY.—When was it reported?

Mr. HODGINS.—It is all reported in this letter of September 14; if there is anything different, you understand, I will mention it.

By Mr. Hodgins:

Q. What is the next item?—A. Station 4,076 to 4,079, 30 yards common excavation; 830 loose rock transferred to——

Q. Solid?—A. Solid as 850 yards.

Q. When did that item of 30 first appear?—A. In my notes here, February.

Q. February, 1907—what about the 830?—A. The note is here, 730 yards returned in it of loose rock in February, and in April 830.

Q. Now, did they remain the same through these estimates, from those dates, down to the time of the transfer?—A. Yes.

Q. And did you go out on the work and examine into that?—A. Yes.

Q. And did you determine how that ought to be classified?—A. Yes.

Q. And in your judgment how should it have been classified?—A. I put it back to what it was originally returned.

Q. Yes, and in your judgment was that the right way of dealing with it?—A. Yes.

Q. Now look up your notes with regard to that and see what the circumstances were; how did you report that to Mr. Lumsden according to that letter?—A. (reads) 'Station 4076, 30 yards com. ex. and 830 yards loose rock, transferred to 860 yards solid rock. There is a pocket of pure sand in this cut, which in my opinion, is a stretch of imagination to call loose rock. The 30 yards com. ex. occurs at the west end of the cutting and was returned in February as com. ex.'

Q. Is that statement a correct description of the situation as you found it on the ground?—A. That is a correct description.

Q. Did you transfer that back?—A. I transferred it, I had transferred all these before I went out the second time.

Q. In the August estimates?—A. In the August estimates.

Q. What is the next item?—A. (Reads) '4143 to 4146, 50 yards com. ex. and 280 yards of loose rock turned into 339 yards of solid rock.'

Q. Did you investigate that?—A. I investigated them all.

Q. Now, just tell me when these first appeared in the estimates?—A. From this note, in February.

By Mr. Murphy:

Q. Can you tell us without reference to the note?—A. I would have to turn up all these returns in order to do so.

Mr. HODGINS.—We have gone over all these returns?—A. It is easily checked up by these papers.

By Mr. Barker:

Q. Were these notes made at the time?—A. I made these notes in my office at the time.

Mr. PARENT.—Are you going to produce these notes?

Mr. HODGINS.—They are here on the book, I understand.

Mr. PARENT.—But if you refer to them as a matter of evidence, they should be produced.

Mr. HODGINS.—If anybody wants them, they can be produced, I do not care; the record is in the commissioners' office in the form of a letter, but if you want these you can have them.

Q. The question, I think, was when did this first appear?—A. I will look it up—February.

Q. That is as to the 50 yards?—A. As to the 50 yards.

Q. And as to the 280 yards?—A. I cannot say from these notes; I will have to look it up.

Mr. MURPHY.—What are these answers being based on? Are the notes the basis of the answer or the letter put in as an exhibit?

Mr. HODGINS.—I have gone over all these, and if you want to take up the time now we will turn them up in the returns, but we have done that already.

Mr. BARKER.—I think the question is fair; the notes were made on the spot immediately after the examination.

Mr. HODGINS.—I understand these are all made by the witness after going through the returns.

Mr. MURPHY.—I understood the witness to say he could not answer now after reference to his notes.

A. You see, I have a note here; here is the item I wanted to talk about—280 yards. I have a note there of 440 yards, and I could not connect these two together without looking it up. I took these notes in my office when writing the letter. There is a list of the items. I haven't got the information with reference to this particular one.

Mr. HODGINS.—Never mind about explaining more than one item; we will have to look the others up afterwards. About the 280?—A. What is the station?

Q. 4143; it was started in December and came right along?—A. I do not see anything in December.

Q. Here it is—4143 to 4146?—A. (Reads): '4143 to 4146, in January, 50 yards loose rock.' 50 yards common excavation was returned.

Q. That is probably the 50 yards that you found in February, that goes back as far as December. Then you make these two loose rock, you find the 50 yards?—A. 50 yards.

Q. What is solid?—A. No solid.

Q. Now, take February.

Q. Now, 4143—50 yards of commor excavation—the same 50?—A. 440 yards of loose rock and 60 yards of solid.

Q. Do your notes indicate what those progress estimates show?—A. The notes show that in March 1,150 yards of loose rock were returned.

Q. In May?—A. I have not got April, possibly there was no change. In May, 19,060, and in June, 2,680.

Q. Let us look at June?—A. 4143. In June 50 yards of common excavation, 2,680 loose, 770 solid.

Q. That is 4143, is it?—A. 4143.

Q. Now, what is shown in June for solid rock?—A. 770.

Q. And what is it in July?—A. 1,100.

Q. What is the loose rock for June?—A. That is June, is it, which you have?

Q. You have got July in your hand. Just look at June. Give me the June common excavation?—A. 50 yards.

Q. And give me the June loose rock?—A. 2,680.

Q. Now, look at the July, how much loose rock is there?—A. 2,400.

Q. That is a decrease of 280 yards?—A. 280.

Q. And the common excavation in June of 50 yards has disappeared?—A. Yes.

Q. Now, adding the 330 yards to the 770, how much do you make of solid rock?—A. 1,100.

Q. That is the amount, is it not, returned in June?—A. Yes.

Q. Now, did you go over that and investigate it?—A. I did.

Q. And, in your judgment, how should it have been classified?—A. I thought the first classification was all right.

Q. And what did you do with it in the August estimate?—A. Put it back to what it had been originally returned.

Q. And reported that to Mr. Lumsden?—A. Yes.

By Mr. Barker:

Q. What is the result—50 yards of common excavation turned into solid rock and 280 yards of loose rock converted into solid rock, drawing the prices of solid rock?—A. Yes, sir.

By Mr. Hodgins:

Q. The next one is 4153, 90 yards of common excavation transferred. Where did that first appear?—A. January.

Q. Just look at the June estimate now, and see if that appeared. It is 4153?—A. 90 yards in June.

Q. Of common excavation?—A. Common excavation, yes.

Q. Now, in July, in 4153, there is no common excavation?—A. No common excavation.

Q. And what is the difference in the solid rock between what it was before and what it is now?—A. Well, there might have been some solid rock moved during that month.

Q. See if the total is increased in 4153?—A. 480.

Q. I see in July 4153 is returned as 1,100 solid rock and common excavation?—A. But that additional solid rock, that is in that month, would be the additional work that had gone on.

Q. Except the 90?—A. Except the transfer.

Q. Now, did you investigate that on the ground?—A. I investigated all these.

Q. You reported it and disallowed it in the August estimates?—A. I disallowed it before.

Q. Not before the August estimates, did you?—A. The month before I made this report.

Q. Now, take the next item: 4162, 820 yards of loose rock transferred to solid rock?—A. 820.

Q. Yes?—A. Well, in June there were returned 2,820.

Q. Well, now you will have to trace that back. Just look at May?

By Mr. Murphy:

Q. What is that, solid?—A. Loose. Just a transfer of 820. 2,000 remain.

By Mr. Hodgins:

Q. Then, what is the loose rock in May?—A. 2,340.

Q. That is only 480 yards, so you will have to go back further than that to account for the 820. Then take April?—A. It was probably changed in some previous month.

Q. I just want to trace it back. What is the number?—A. 4162.

Q. The loose rock is returned as 1,860?—A. What month?

Q. In April 1,860 and in May 2,340. Now, add the two together, and how much do they make?—A. 860.

Q. That is a little more than 820. That would carry it back how far, to the April estimate?—A. The April estimate.

Q. Will you look at your letter and see if that recalls anything to you (handing

APPENDIX No. 5

letter to witness); you did investigate that on the ground?—A. Yes. (Reads): 'Sta. 4162. 820 yds. loose rock transferred to solid rock. Here there is more sand than loose rock showing. Mr. McIntosh informed me he increased it to solid rock in order to bring it to a profit to the contractor at Mr. McArthur's prices.'

Q. How should that 820 have been classified?—A. As common excavation.

Q. It is transferred from loose rock here?—A. It should have been classified as loose rock.'

By the Chairman:

Q. It should have been classified as loose rock?—A. I take it so, sir. I don't remember the actual item.

Q. Your letter says there is more sand than loose rock showing?—A. I told Mr. McIntosh to go over his classification all over. I would not make the classification. I left it to him to make a re-classification.

By Mr. Barker:

Q. In this case?—A. In this case.

By Mr. Murphy:

Q. But you changed it afterwards?—A. I put it back to what it had been originally. It was originally loose rock, and he jumped it up to solid rock, but it was not solid rock.

By Mr. Hodgins:

Q. In the August estimate you altered that, making the 2,000 yards of loose rock 2,820 yards and taking the 820 from the solid rock?—A. Yes.

Q. That was also reported, was it not?—A. Yes.

Q. Take the next one, 4178, 120 yards of common excavation. Look up your notes and see when it was first classified by McIntosh?

By the Chairman:

Q. Those notes which you are continually referring to, tell the committee under what circumstances they were made, and when?—A. Made on the work while I was investigating. I had these pieces of paper, and these are some notes on the back of them that I made on the work.

Q. You took your own notes?—A. My own notes.

Q. On the work?—A. On the work.

Q. And you wrote them in your office?—A. These notes as to what date the item first appeared in the estimate I got in my office by looking up the same sheets. I had copies of these sheets in my office.

Q. When you went over the work you took your own notes?—A. Took these notes——

Q. In what way?—A. And they formed the basis of this letter.

Q. You took your own notes on the back in pencil, and when you went back to your office you put them into shape?—A. In the shape of a letter.

By Mr. Hodgins:

Q. Now, 4178, the 120 yards of common excavation appeared first in January?—A. First in January.

Q. That was transferred in July. Now what do you have to say as to that?—A. There is no reason why it should not have been left in common excavation.

Q. Was that transferred by you in August?—A. They all were, yes.

Q. The whole sheet as it stood, and that was afterwards reported? Now take the next item 4190, 500 yards of loose rock. I think you will have to trace that?—A. In February 400 yards of loose rock was reported.

MAJOR HODGINS.

Q. You had better just see where that commenced?—A. 4190. No common excavation, 400 of loose rock and 40 of solid. It was evidently the commencement of the cut.

Q. That is February. Now look at March please?—A. 4190. No common excavation, 900 yards of loose rock, 150 yards of solid.

Q. That is more than 550?—A. It is more than 550.

Q. So that must have started as far back as February and March?—A. February and March.

Q. And that was investigated by you?—A. Yes.

Q. And how should it be classified?—A. The same as it had been before.

Q. The next item, please?—A. 4201. 65 yards common excavation, 900 yards loose rock. Transferred to solid rock 965 yards.

Q. Now have you notes on that?—A. (reads): 'A portion of stripping taken out, 2 or 3 feet deep. 50 per cent of this loose rock and 50 per cent solid would be liberal. Where can the line be drawn. McIntosh has drawn no line. Stripping should have been wasted. It is no good in the bank with the solid rock.'

Q. Perhaps your notes were extended a little more when you came to write the letters. Just look at the letter?—A. (reads) '65 yards common excavation and 900 yards loose rock transferred to solid rock. Mr. McIntosh informs me that all the stripping in this cutting is returned as solid rock although it might rightly be called loose rock. 50 per cent of this stripping returned as loose rock and the balance solid rock will be in my opinion, extremely liberal classification. The difficulty in Mr. McIntosh's classification is that he has gone beyond the limit of liberality. In this cutting the stripping is no use in rock bank and should have been wasted. The portion taken out this summer is only 3 feet deep.'

Q. What did you do with this item, transfer it back to where it was?—A. I transferred all these items back before I went out. I went out after I had transferred them and made those notes afterwards.

Q. And reported to Mr. Lumsden?—A. Reported to Mr. Lumsden.

Q. You never saw the September estimates?—A. No.

Q. Now take the last item 4213. 50 yards of loose rock. Just look up and see if that appears first in June?—A. What is the item?

Q. 50 yards of loose rock, 4213?—A. 4213. No common excavation, 50 yards of loose rock, 50 yards solid rock.

Q. Now the loose rock is transferred in July. What do you say as to that? It is hardly worth considering?—A. Hardly worth considering. You see I told Mr. McIntosh that I was not going to classify this. I told him he would have to classify it and have it in proper shape by the September estimate and I left this to him to do it.

Q. And before the September estimate came out you were dismissed?—A. The day after I wrote this letter, or a couple of days afterwards, I got the letter from Mr. Lumsden. The letters crossed, I expect.

By Mr. Barker:

Q. Before you go on. Who made the original estimates that were replaced by you?—A. I don't understand that?

Q. The estimates which were transferred by Mr. McIntosh, who made them originally and certified to them?—A. He and the resident engineer were responsible for it. They were on the work all the time.

Q. Did he send the certificates to you?—A. Oh yes.

By Mr. Hodgins:

Q. Was it his duty and that of the resident engineer to classify?—A. It is the resident engineer's duty to classify and consult with the division engineer. They are the men that are on the work. They know more about it and can give a better opinion.

By Mr. Carvell:

Q. Than whom?—A. Than anyone else that goes on the work unless he studies it out.

By Mr. Hodgins:

Q. Now this is the letter of McIntosh attached to that which forwarded the estimates for the month of July to you?—A. Yes.

Q. And on the back of the attached sheet are your notes. I will put those in as requested.

EXHIBIT No. 7.

THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.

WABIGOON FALLS, July 27, 1907.

MAJOR A. E. HODGINS,
District Engineer, N.T.C. Ry.,
Kenora, Ontario.

DEAR SIR:—Enclosed herewith please find estimates for the month of July. I have made some changes in the classification, changing certain amounts which were returned as loose rock into solid, and common excavation into loose rock on Residencies 25 and 25. A statement is attached to the estimates showing the amounts transferred. The amount transferred on Residency 26 is 2,300 cubic yds., from loose rock to solid, Station 4,240.

On Residency 25 the items are shown on memorandum attached. These transfers I have deemed advisable to make at the present time as having regard to the cost of working and material they should be promptly classed as rock excavation.

The estimate this month shows an increase over last month of $35,024. The force at the present time is over 900 men (written in pencil '712 in June.') Several new camps are now being built and conditions generally improving.

The force on this division has not been affected as yet by the usual summer restlessness of labour.

I am forwarding to you a blue print showing the location of new camps, and new roads which have been built.

Yours truly,
F. J. McINTOSH,
Division Engineer '6.'

NOTES ON BACK OF LETTER.

4162+82	L.	S.	
May	2,340	460	
June	2,820	580	
July	2,000	1,880	
4178	**L.**	**S.**	**C.E.**
July	4,610	1,540	
	4,420	610	120
4190			
February	400	40	
March	900	150	
April	1,300	250	
May	1,350	650	
June	1,350	1,100	
July	800	2,150	
		3,515	

MAJOR HODGINS.

4201	L.	S.	C.E.
July			
June	900	1,700	65
May	700	1,600	65
April	450	1,350	65
March	300	850	65
February	300	180	65
January	35	0	65
4213			
June	50	50	
July	0	650	

	L.R.	C.E.	S.	
June	2,680	50	770	
July	2,400	0	1,100	330

EXHIBIT No. 8.

SUPPLEMENT TO FORM 4—RESIDENCY 25, DIVISION 6.

Showing amount of material previously returned as common excavation and loose rock, now transferred to solid rock.

Station to Station.	Yardage deducted from common excav. item 6.	Yardage deducted from loose rock, item 5.	Yardage adds to solid rock, item 4.
Anderson & Johnson :—			
3517÷11·6—3518÷80	150	50	200
3523÷70 —3520÷50	200	..	200
Chas. Peterson :—			
3972÷54·4—3969÷37	70	40	110
4009÷14 —4012	..	400	400
4027÷33 —4030÷35	100	1,060	1,160
4076÷75 —4079÷65	30	830	860
4143÷39·5—4146	50	280	330
4153÷62 —4149÷35	90	..	90
4162÷82 —4168÷10	..	820	820
4178÷58 —4173÷10	120	..	120
4190 —4192÷65	..	550	550
4201÷37 —4197	65	900	965
4213÷42 —4214÷75	..	50	50
	875	4,980	5,855

Station 4051 to 4230, 4,591 acres clearing deducted from Chas. Peterson and transferred to D. C Galbraith.

(Written in pencil :
Cut 4068 sand and gravel.
Cut 4250 to 57
148 3-3158 E. R. 6894 E. June
168 5838 6894 E. July
All July work classed as L x s
Work done previously harder than since.)

Correct.

Wabigoon Falls, July 28, 1907.
(Sgd.) A. P. Miller,
Res. Eng. 25.

(Sgd.) F. J. McIntosh,
Per A. P.M.
Division Eng. "6."

(Classification will be reduced when more L. R.)

APPENDIX No. 5

EXHIBIT No. 9.

No. 541. KENORA, August 6, 1907.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa, Ont.

DEAR SIR,—I send you to-day, per Dominion Express, J. D. McArthur's progress estimate for month of July, comprising single copies of Forms Nos. 4, 5, 98, 45 K (Division Engineer to District Engineer and District Engineer to Chief Engineer), and 45 X, triplicates of Form 101 and statements relating to same, two copies of extra order No. 23, and one only of order No. 37, two copies of this last order being already in your possession.

I inclose herewith a copy of a letter from Mr. McIntosh relating to an error of 100 c. yds. of loose rock on Residency 25, Stn. 3974-50; this item was erroneously entered in June and has been deducted in the current estimate.

A statement is attached to Form 4, Residency 25, showing certain amounts, which were previously returned as loose rock and common excavation, now returned as solid rock.

Mr. McIntosh writes *re* same:—

'These transfers I have deemed it advisable to make at the present time, as, having regard to the cost of working and material, they should be properly classed as rock excavation.'

You will also notice on Residency 26, that 33 c. yds. of dry masonry have been deducted, and a like amount has been added to item 17, paving.

On Form 45 X, appears an amount of piling delivered, this material is off loaded at the material yard, and it would not be fair to enter this under item 10 on residency 39, as it will be split up and used on several residencies. In due course, it will be deducted from Form 45 X and entered under items 10 and 11.

The extra work appearing under order No. 23 is the first progress under this order. Form 101 covering same will be sent to you as soon as received from Mr. A. G. MacFarlane.

For explanation of extra work at Neck lake, see my letter of yesterday's date. Form 101 for this will also be sent you as soon as received.

Yours truly,

A. E. HODGINS,
District Engineer.

I have also put in a letter of the 6th August transmitting the progress estimates for July to Mr. Lumsden. (Exhibit 9.) I will refer to two paragraphs in it. The letter transmits the daily estimates comprising single copies of forms Nos. 4, 5, 98 and so on, and statements relating to estimates. Now these are the paragraphs I referred to (reads) :

'I inclose herewith a copy of a letter from Mr. McIntosh relating to an error of 100 cubic yards of loose rock on Residency 25, Stn. 3,974-50 ; this item was erroneously entered in June and has been deducted in the current estimate.

'A statement is attached to Form 4, Residency 25, showing certain amounts which were previously returned as loose rock and common excavation, now returned as solid rock.

'Mr. McIntosh writes *re* same :

'These transfers I have deemed advisable to make at the present time, as, having regard to the cost of working and material they should be properly classed as rock excavation.'

Now that is a quotation from McIntosh's letter contained in your letter of the 6th August, 1907. Did you see the chief engineer personally after writing that letter ? —A. What is the date of that ?

MAJOR HODGINS.

Q. August 6?—A. No.

Q. Well, I understand that Mr. Lumsden went up there about the 12th or 13th August?—A. August? Let me see. I forget. I saw Mr. Lumsden up there. It would be about the time he was in Winnipeg.

Q. About 6th of August?—A. And I spoke to him about it, and told him I had sent it to him.

Q. What discussion took place between you and him as to these July estimates?—A. I said I had noticed that there were several cases where the solid rock estimates had jumped in that month out of the usual average, and the only way I could account for it was that somebody had suggested to the men, the engineers on the line, to return solid rock with more liberality than I was inclined to do.

Q. Did you mention to him to whom you referred?—A. Yes. I said to him, 'Mr. Grant has just been over the line and the solid rock estimate has jumped.'

Q. Did you get any instructions from him?—A. He told me to go over the work with reference to these——

Q. With reference to what?—A. To these items.

Q. To the items that McIntosh had transferred?—A. That McIntosh had transferred.

Q. Now I will fix the date of that interview accurately a little later?—A. 'Mr. Lumsden,' I said, 'I do not like the look of that sudden jump and McIntosh has not given me a very satisfactory answer.'

Q. What did the chief engineer tell you to do?—A. When I told him I was going he said 'Yes, you had better go as soon as possible.'

Q. Now have you prepared and can you give the totals in the division showing the difference between the classifications immediately before and immediately after Mr. Grant's visit?—A. Yes.

Q. Is that it in your hand?—A. This is it, yes (producing document).

Q. Now take McIntosh's division.

Mr. MURPHY.—Is that going to be filed.

Mr. HODGINS.—Yes, I will file it with pleasure.

The WITNESS.—Division 6.

Q. Now the solid rock total to the end of June was how much?—A. To the end of June?

Q. Yes?—A. I have not got the totals.

Q. There is June (pointing to document)?—A. The May progress is 28,996 yards.

By Mr. Murphy:

Q. What is that, solid?—A. Solid

By Mr. Hodgins:

Q. Now the June progress?—A. June progress, 31,368.

Q. And in July?—A. 58,104.

Q. That is an increase over the previous month of 26,000 yards?—A. And the August, 44,721.

Q. Now take the loose rock in May? How much is that?—A. The May progress?

Q. Yes?—A. 9,925.

Q. And June—A. 10,193.

Q. And July?—A. 8,258.

Q. That is a decrease in loose rock? Now take the common excavation?

By Mr. Murphy:

Q. What was it in August?—A. 24,442.

By Mr. Hodgins:

Q. Then take the common excavation in the May progress?—A. 4,008.

Q. And the June progress?—A. 11,942.

Q. And the July progress ?—A. 365.

Q. And the August ?—A. 14,005. All these figures should be taken in connection with the force account too. These are only notes I had a man in the office make.

By the Chairman :

Q. You say these were notes that were made in your office ?—A. In my office at the commencement.

Q. Men in your office made these notes out ?—A. Went over the estimates and compiled them. All the divisions are there.

By Mr. Hodgins :

Q. What divisions are shown there ?—A. Four out of the five.

Q. What is McIntosh's division, No. 6 ?—A. No. 6.

By Mr. Carvell :

Q. Was there any difficulty or any transferring of quantities in any other division except No. 6 ?—A. No transfer like this. I got no statement of it.

Q. Was there any transferring at all ?—A. I do not know of any.

By Mr. Hodgins :

Q. No other engineer transferred them in that same way ?—A. The engineer I had checking these estimates in the office never reportd anything else to me.

By Mr. Murphy :

Who is he?—A. Mr. Ruddick, who had sole charge of these estimates, checking them up and adding them at the end of the month, that was his work.

Q. Is he the man that made up this list ?—A. Yes.

By Mr. Hodgins:

Q. Was he then in the employ of the Transcontinental Commission ?—A. Yes.

By the Chairman :

Q. These notes you say were prepared by one of your employees ?—A. From these documents (indicating estimates).

Q. From these very documents ?—A. Not these identical ones, these are made out in triplicate or quadruple.

By Mr. Lennox :

Q. What are these documents ?—A. Progress estimates, one copy was kept in my office and the others were sent away.

By the Chairman :

Q. And those documents, from which this data was taken, are signed ?—A. You can find all this information in these documents—they are signed, oh, yes.

By Mr. Hodgins :

Q. Those documents, from which these notes are taken, are exact duplicates of the originals which are produced by the commission?—A. Yes.

Q. And they are still in your office at Kenora ?—A. I presume so.

Q. They were left there by you ?—A. Yes.

Q. Who gets the other copy, the commissioners only appear to have one?—A. There are two.

Q. At all events there are two, one is kept by you, and the other is kept by them ?—A. The Auditor General, I think, gets a copy; I know there are an enormous number of them signed every month.

Mr. Hodgins.—I put that in.

EXHIBIT No. 10.

DISTRICT 'F,' WINNIPEG EAST.

Division.	Date.	Solid rock.	Loose rock.	Common Excavation.	
5	To end of April	37,827	6,741	23,771	C. F. Richan's Division.
	May progress	16,167	6,959	15,772	
	June progress	19,166	15,065	15,230	
	GRANT INSPECTION.				
	July progress	19,908	27,100	23,489	
	August progress	22,416	27,848	32,666	
	Totals	115,484	83,713	110,928	
6	To end of April	78,781	22,943	9,326	F. J. McIntosh's Division.
	May progress	28,996	9,925	4,008	
	June progress	31,568	10,193	11,942	
	GRANT INSPECTION.				
	July progress	58,104	8,258	385	
	August progress	44,721	24,442	14,005	
	Totals	242,170	75,761	39,666	
7	To end April	221,754	43,981	42,279	A. G. Macfarlane's Division.
	May progress	72,133	8,322	6,465	
	June progress	63,588	7,917	17,213	
	GRANT INSPECTION.				
	July progress	91,324	11,651	16,250	
	August progress	113,044	26,783	942	
	Totals	561,843	98,654	83,149	
8	To end April	269,014	37,232	76,568	Mr. Macfarlane's Division.
	May progress	44,742	5,957	1,779	
	June progress	47,739	6,137	7,948	
	July progress	58,367	9,458	8,411	
	August progress	47,903	12,976	4,886	
		467,770	71,760	99,592	
		1,387,267	329,888	333,335	

The above figures show the sudden jump on solid rock and decrease on the lower priced materials immediately following Mr. Gordon Grant's inspection trip over my district about first week in July 1908. May progress gives the cubic yards in each material handled during the month.

Mr. HODGINS.—The following is a letter of September 7 from Major Hodgins to the chief engineer :—

EXHIBIT No. 11.

'H. D. LUMSDEN, Esq.,
'Chief Engineer,
'Ottawa.

'KENORA, September 7, 1907.

'DEAR SIR,—I inclose herewith two letters from Mr. McIntosh giving reasons for making change of earth and loose rock to solid rock, Residency 25, July estimate.

'I have altered this classification in the August estimate to that which was originally sent in during the month prior to July estimate, and as Mr. McIntosh objects

to this I have agreed to go over the cuts in question again with him, as I do not like to alter any division engineer's estimates unless consents and is convinced that my decision is just.

'Mr. McIntosh admits that most of the material in question should be classified as solid rock, because it costs as much as solid rock to take out. Mr. McIntosh's letter also states that he has not estimated by force account in his July or August estimate.'

By the Chairman :

Q. Major, what do you call 'force account,' what is that ?—A. It is the cost of the work plus 10 per cent.

Q. The cost of the work, a calculation is made ?—A. All the wages.

Q. And the 10 per cent, what is that ?—A. The 10 per cent is to cover the use of tools and the contractor's general expenses, and profit.

By Mr. Barker :

Q. 'Force account' does not necessarily mean 10 per cent profit ?—A. That was what it meant, 10 per cent, it is referred to in the specifications.

The CHAIRMAN.—It means 10 per cent ?

By Mr. Barker :

Q. You take 'force account' and technically it may mean 10 per cent or 15 per cent ?—A. In this case it is 10 per cent, because the specifiations limit it to 10.

Q. It means 'cost plus percentage.'—A. Cost plus a percentage which is agreed upon with the contractor.

Mr. HODGINS (continues reading) :

'I might also add that there seems to have been a misunderstanding about the instructions I gave after you left for Ottawa, that none of the engineers were instructed to classify solely by force account by me.

'With reference to the last paragraph of your letter, Mr. Heaman has visited Residency 35 (Scott), and reports that classification can be claimed to be according to the specifications, but not so liberal in Mr. Heaman's opinion as it should have been. He has instructed Mr. Scott how to classify in order to bring it up to the uniform standard I have laid down. I think in the next month's estimate Mr. Scott's classification will be satisfactory to all concerned. I might add Mr. Scott was governed in his classification in the first instance by Mr. Mile's opinion of what it should be, and when Mr. M. C. Macfarlane was appointed he did not care to increase the classification made by Mr. Macfarlane's predecessor as it would have caused some minus quantities to appear in the estimate. Mr. Macfarlane's interpretation of the specification is more liberal than that of his predecessor. I have been over a greater portion of the work since I returned from Ottawa and Mr. Heaman has been over the balance, but we both agree that even if Mr. Grant did not give any direct instructions to engineers how to classify he caused a good deal of trouble by remarks he made to resident engineers and other with reference to classification. I therefore intend spending the greater portion of this month going over the line and bring the classification to a uniform basis, and intend to be generous in the interpretation of these specifications with reference to classification of common excavation and loose rock, but I would not allow the introduction of solid rock into cuttings where it does not exist.

Since Mr. Grant's trip over the line I have had to reduce the classification in two places which clearly showed a disregard for the specifications. The items were not very considerable, but I have notified the engineers that a repetition of this sort of thing will mean their discharge.

'Yours truly,

'A. E. HODGINS,
'District Engineer.'

MAJOR HODGINS.

That is the letter of September 7. Now the letter of September 9, from the same to the same, is as follows: (Reads.)

EXHIBIT No. 12.

(Private and confidential.)

KENORA, ONT., September 9, 1907.

H. D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—In looking over Mr. McIntosh's estimates I notice that his monthly return for common excavation amounted to very little over 385 c. y. for July estimate, the estimate immediately following Mr. Grant's inspection, and then jumped to 14,005 c. y. during August.

Com. excavation, McIntosh's division, to end January..				5,287	c. y.
"	"	"	"	February . 5,742	"
"	"	"	"	March. .. 6,672	"
"	"	"	"	April. . . 9,326	"
"	"	"	"	May. . . 13,334	"
"	"	"	"	June. . . 25,276	"
"	"	"	"	July. . . 25,661	"
"	"	"	"	August. . 39,666	"

The amount of common excavation returned in July as solid rock, it having previously been returned as common excavation, and which I altered on the August estimate, is only 875, so that it does not account for the large falling off of common excavation in July.

I went over Mr. McIntosh's division just before the August estimate was put in, and I told Mr. McIntosh I would not allow some of his classification. I did not go closely into classification in each cut, as resident engineers were busy on their estimates. I told Mr. McIntosh his classification was high generally.

I am now going up to go over the 13 cuttings where common excavation and loose rock were transferred to solid (5,855 yds.) in July, and am taking Mr. Heaman up to go over the whole division with Mr. McIntosh and report. I cannot understand why 12,942 c.y. common excavation were moved in month of June, 385 c.y. common excavation were moved in month of July, and 14,005 c.y. common excavation were moved in month of August.

I may not be able to prove it, but I am inclined to believe that McIntosh was influenced by Grant's ideas of classification, which in my opinion are extravagant.

Previous to July estimate, Mr. McIntosh's classification was not alarmingly high. I will report to you later.

Yours truly,

A. E. HODGINS,
District Engineer.

Then follows the letter of September 14, that the inspection had taken place, which is, I understand, already in. (See Exhibit No. 6, page 138.)

Mr. CARVELL.—What is this, a private letter from Mr. Hodgins to Mr. Lumsden?

Mr. HODGINS.—It is marked 'Private and Confidential,' but it is on the business of the railway; it is information conveyed to the chief engineer for the good of the commission, I suppose.

Mr. CARVELL.—I am not finding fault, Mr. Hodgins, I merely wanted to know.

Major HODGINS.—I marked a good many of those letters 'Confidential,' so that they would not go through the office by the ordinary stenographer, and be discussed in the office.

APPENDIX No. 5

By Mr. Hodgins :

Q. Now, immediately following those two letters, stating that you were going over the whole division, I understand you received from the chief engineer, a letter, also marked in the same manner, asking for your resignation; it is just as well to fix that date ?—A. Yes.

Q. This is dated September 12 (reads) :

EXHIBIT No. 13.

'Personal and Confidential.

'THE COMMISSIONERS, TRANSCONTINENTAL RAILWAY.

'OTTAWA, September 12, 1907.

'MY DEAR HODGINS,—Owing to the state of feeling in regard to the work under your charge I have come to the conclusion that it will be necessary for me to recommend that a change be made and some one else put in charge, but before doing so I am dropping you these few lines, and would suggest to you that you at once make application for a month's leave of absence, so as to give you time to look round.

'Please wire me in cipher on receipt of this if you concur in my suggestion.

'Yours very truly,

'HUGH D. LUMSDEN.

'A. E. HODGINS, Esq.,
'District Engineer,
'Kenora, Ont.'

Q. You received that letter under what circumstances ? Where did you receive that ?—A. In Kenora, I had just come in from the work, I think I got it on Sunday or Monday.

Q. When you say you had just come in from the work, what do you mean ?—A. I mean from the line.

Q. But what had you been doing out there ?—A. I had just been on this inspection of McIntosh's division.

Q. And had you begun the inspection announced in that letter of September 9 ?—A. Oh, yes.

Q. You say there, 'I am now going up to go over the 13 cuttings where common excavation and loose rock were transferred to solid (5,855 yards) in July, and am taking Mr. Heaman up to go over the whole division with Mr. McIntosh and report.' That is on September 9 ?—A. Yes, Mr. Heaman came up with me and we went over McIntosh's division together.

Q. Had you completed that inspection which you had announced when that letter reached you ?—A. No.

Q. And I suppose on the receipt of that letter you practically stopped your work ?—A. I did.

Q. Yes. Did you have any communication with Mr. Lumsden shortly afterwards with regard to the classification of divisions 5 and 6 in your district?—A. I think I wired him.

Q. Have you the telegram ? You have the telegram produced, is it not, I have seen it—I think it is dated the 22nd—it was produced this morning. I will read the translation—it was sent in cipher by Major Hodgins to the chief engineer :

EXHIBIT No. 14.

'KENORA, ONT., September 22, 1907.

(Translation.)

'If McIntosh tries to justify his classification refer to Mann and Heaman. Ask McIntosh how much experience he has had in classification, what position he held

MAJOR HODGINS.

prior to joining T.C. Ry. Ask Grant same questions, both records would be interesting. If their opinion is against Mann's, Heaman's and mine, reclassification divisions 5 and 6 is absolutely necessary. I was stopped in the middle of it by your letter. Waiting reply to my message about leave.

'A. E. HODGINS.'

Now, at that time, or rather just previous to that letter, had you received a communication from Mr. Mann, the district engineer of the Grand Trunk Pacific ?—A. Yes, I got a letter from him as I was coming out.

Q. These letters were forwarded, were they not, or were they, to the chief engineer ?—A. Yes, I presume so, I got them just about the time I was leaving; I could not say.

Q. Now, the letter of September 6, which I will put in, with the additional letter of September 9, which is explanatory, is as follows :—

EXHIBIT No. 15.

'GRAND TRUNK PACIFIC RAILWAY,
ENGINEERING DEPARTMENT,
'KENORA, ONT., September, 6, 1907.

'Major A. E. HODGINS,
'District Engineer, Section "F,"
'Kenora, Ont.

'DEAR SIR,—I have recently been over the ground between the east end of Canyon lake and the English river.'

Is that on your district?—A. Yes, that is the end of it, under construction.

Q. (Continues reading):

'And would like to call your attention to some points on this work, particularly classification. As regards the portion of work between the C.P.R. crossing at Rennie and the east end of Canyon lake, I have already expressed myself to you as having no fault to find.'

Just there, had you been in communication with Mr. Mann from time to time?—A. Oh, yes.

Q. How long had he been on the work, from the commencement?—A. No, he only came on soon after the construction started.

Q. And he had represented the Grand Trunk Pacific there?—A. In joint supervision with me.

Q. (Continues reading):

'The same cannot be said, however, for divisions 5 and 6.'

Whose divisions are those?—A. McIntosh's and Richan's.

Q. (Continues reading):

'I find that at many points on these divisions *the classification is too liberal, while at some points it is excessive.* I can't tell in some cases just what classification has been allowed for the reason that there is no distinction made between solid rock in classification, and in place; that is solid in boulders and in mass. In some cases, however, as between Canyon lake and the Wabigoon river, where the solid in place in some of the cuts had not been touched at the time I saw it, *an amount of solid has been allowed that quite evidently was not based on the measurement* of boulders found that would class as solid under the specification. *Loose rock has also been allowed in quantities that could not possibly be given if the specification were followed as the only guide.* I do not wish it to be understood that I am asking that the specification should be strictly followed in this matter. In consideration of the somewhat unusual difficulties under which this work has been carried on, this would, I think, be unjust to the contractor. On the other hand, it would not seem safe to classify solely by the cost of the work to the contractor, particularly to trust the average field man with the

free use of such a method. This would seem to call for special experience, and among other things, the ability to judge of the quality of management displayed on the part of the contractor, both principal and sub. Supposing this management to be reasonably good, the cost of work as shown by *force account, &c., would be useful,* and I think, necessary guide to classification, in material that is classifiable. *Rock in place does not, however, come under this heading,* and the contractor's profit or loss must depend on his own exertions.

'As I have already said, there seems no cause for complaint as regards classification, as a whole, on divisions 7, 8 and 9.

'Moreover, *as I find it necessary to object to, and ask for a reclassification on divisions 5 and 6,* and wish to ask on behalf of the company only what is fair, and even liberal, will go further and say that on a large proportion of divisions 7, 8 and 9, the classifications might, in my opinion, be more liberal. Some of the resident engineers, as for instance, Mr. Sunstrum, are high enough, and in a few points perhaps a little too high, but on the whole these divisions might be treated more liberally. I noticed also in many places small pockets and thin stripping of bad material composed largely of roots, stones and water in cuts otherwise solid rock. These, I think, might be measured in with the cut; and if the contractor wishes, wasted on the side. A moderate amount of this material is of no use in the fill, as will usually not more than fill the voids in the rock. *In such stripping, however, should not be included pockets of muskeg* of such size that they can and are taken out by station men. I am of the opinion that a reclassification of the entire work would not result in any reduction of the estimate to the end of July; there might be some increase of which the contractors on the western end would get the benefit. A more uniform classification, even if a little liberal, would also be more easy of defence and more creditable to all responsible.

'In one particular the contractor has been treated most liberally on all the divisions. That is the matter of overbreak and waste. It is impossible to avoid the conclusion that much of this is intentional. It occurs often at places where every yard is needed, and where for every yard wasted a yard will have to be borrowed. There are many points on the work, too numerous to mention now, where overbreak and waste *are excessive.* In places blocks of stone of five to ten yards are thrown from one to two hundred feet from the line into the bush. As a particularly bad example of waste, I might mention the cut at station 3365, mile 64, where a large amount of material is wasted that is needed in the fill, and where it still might be brought back.

'I give the following as examples of *over-classification, &c.*

'Sta. 4260, Mile 31, east end of cut.
'Sta. 4170 " 79, both ends of cut.
" 4150 " 79, noted as bad cut but classified very liberal.
" 4150 " 79, noted as heavily over-classified (east end).
" 4065 " 77, appears to be heavily over-classified. It will be necessary, to have solid in classification, and solid in place, if any, separated before it can be judged.
" 4010 " 46, example of large waste.
" 3846 " 73, very liberal.
" 3836 " 73, decidedly too liberal.
" 3784 " 72, east end. Decidedly too liberal.
" 3750 " 72, west end. Decidedly too liberal.
" 3365 " 64, example of excessive waste.
" 2750 " 53, much over-classified.
" 2730 to 2660, miles 51 and 52. These are bad cuttings and need liberal treatment, which they are getting.

Sta. 2373, mile 45, east end of cut. Classification extremely liberal.

Sta. 1873 to 1899, mile 36. Classification appears decidedly too liberal, but it will be necessary to separate portion from 1890 to 1899 before it will be possible to say to what extent. Main portion of cut is dry sand.

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Sta. 1548, mile 30, excessive classification.

Sta. 1475 to 1491, mile 28 to 39. Am not able to get at the total quantities for this cut. The return of July gives 5,285 cubic yards of loose rock in material that can be called nothing but sand. At the beginning of the cut there is a small amount of material that could be classified, but a hundred yards would be sufficient for the whole cut. Unless some mistake in the figures this is one of the most striking examples of over-classification on the work.

Sta. 1383 to 1390, mile 27. This is very similar to the last. A large amount of loose rock appears for july material that is sand, without any boulders in sight.

Sta. 1258, mile 24, this borrow is over-classified or no borrow should be taken from here at all. This fill and a number of large fills on divisions 5 and 6, might be made up by train fill at train fill prices and at a profit to the contractor, and excellent sand borrow is available. No borrow need or should be taken that would exceed the price of train fill flat.

Sta. 1060, mile 21, decidedly too liberal classification.

Sta. 1038, mile 20, noted as needing liberal classification.

Sta. 1025, mile 20, box culvert. Noted as very poor sample, being made up mostly of stone so small as to be not much above the class of spauls.

Sta. 932, mile 18, decidedly over-classified ; very loose material.

Sta. 915, mile 18, decidedly over-classified.

Sta. 886 to 890, mile 17, over-classified. (Ditch.)

Sta. 886, mile 17. A very poor sample of box culvert.

It must be said that the box culverts on this end of the work are very poor, whether dry masonry or laid in cement. If no better stone is available, they should all be laid in cement of a good quality, and no dry boxes should be built under sand fills. As to quality of cement being used at this end of the work Mr. Heaman can give you some information.

There are other points on the line where there is room for criticism, but those given above are the most striking examples. I find it difficult to get at the exact conditions on Mr. Richan's division, as the figures I have given details for the month of July only, and totals mile by mile. For a thorough understanding of the work, I will need to have all information cut by cut, &c., and solid rock in place, and classified solid should be separated. Will be greatly obliged if you will arrange so that I can get this information in future estimates.

In conclusion I wish to say again that I do not wish to ask for anything unreasonable as regards this matter of classification. My instructions as to what may be considered allowable are very liberal. I find it impossible, however, to accept such classification as specified above.

Yours truly,

W. E. MANN,
District Engineer, G.T.P.R.'

The explanatory letter of September 9 is as follows:—

EXHIBIT No. 16.

GRAND TRUNK PACIFIC RAILWAY,
KENORA, ONT., September 9, 1907.

Major A. E. HODGINS,
District Engineer, Transcontinental Ry.,
Kenora, Ont.

DEAR SIR,—I would like to add a few words to my letter of the 6th instant on the subject of classification, with reference particularly to the short portion of the work east of the east end of Canyon lake, Mile 81.

Mile 81, can you say whose division that was in?—A. Mile 81?

Q. About the east end of Canyon lake, Mile 81?—(No answer.)

APPENDIX No. 5

(Continues reading):

'As I have said, there was on the whole up to the time I saw it, no cause for complaint as to classification from this point west, while to the east it is quite different. I had been able to see only a small portion of this latter under the June estimate, and thought then that the classification was extremely liberal, even too much so, and intended calling your attention to it. I decided, however, that as this work was undoubtedly bad, it would be better to let this go until I could see it again. I was surprised to find that under the July estimate the classification was much higher, a large amount of solid rock classification having been added. As for instance of change in classification in the July estimate, would call attention to the east end of cut 4250 to 4257. By the June estimate the quantities moved are solid rock 148 c. y., loose rock 3,158 c. y., common excavation 6,894 c. y. For the July estimate this becomes solid 168 c. y., loose 5,838 c. y., and common excavation 6,894 c. y. This is all the work returned in July and classified as loose and solid rock. From an inspection of the cut I have no hesitation in saying that the work done before July was harder than what was done since, and that even up to the end of June the classification was too high in this cut.

'The other cuttings from 4140 to 4200, I had noted as bad, but classified very liberally. The July classification is, however, altogether too much so. No doubt this work is costing the contractor high, but this could not be otherwise with the inadequate plant in use, and the haphazard, spasmodic way in which it is being handled.

'In saying in my letter of the 6th, that I think the classification might average a little more liberally on the western divisions, I do not mean it to be inferred that I think the men on those divisions are not allowing all, and even a little more than a strict interpretation of the specification will admit. It seems, however, work on which a decidedly liberal interpretation of the specification is necessary. Hence my suggestion that classification on those divisions might be raised. If this would help forward toward the earlier completion of the work it would be worth the extra cost.

'Yours truly,

'W. E. MANN,
'District Engineer, G.T.P. Ry.'

Committee adjourned.

WEDNESDAY, May 20, 1908.

The committee met at 11 o'clock a.m.

The examination of Major Hodgins resumed.

Mr. HODGINS.—I have already put in the letter of September 14 from Major Hodgins to Mr. Lumsden (Exhibit No. 6), and referred to it so far as it related to these items. I wish to call the attention of the committee to what there is in the letter beyond that (reads):

'Mr. McIntosh ordered, that 2,700 yards of loose rock in the cut near Sta. 4240, should be turned into solid rock in the month of July, and in cutting starting at 4250, the same number of yards was returned as loose rock instead of common excavation, which it surely is, being the finest sand cut that can be found on the line. This should not have occurred and I report the matter to you to deal with.

I have also to report to you that Mr. McIntosh allowed his resident engineer on Res. 25, to add some 660 yards to the estimate on cutting 3848, west of the Wabigoon river. The resident engineer did this to cover up the extravagant classification that he had given to station men when they were quitting. The men have gone away, and unless the same men come back to work this out, this cut will be estimated to contain

660 yards more than has been taken out, to say nothing of the very liberal classification in loose rock being a clay cutting with the exception of a little lump of solid rock encountered near the mouth.

'The last time I was over Mr. McIntosh's work, I found at Sta. 3102, mile 64, that some 900 yds. pure muskeg had been returned as solid rock. The resident engineer informed me that this muskeg was taken out by station men and the contract paid them 23 cents a yard. It was wasted to the side. The reason for returning this as solid rock, claimed both by Mr. McIntosh and the resident engineer, was that it was a pocket in a rock cut. I ordered Mr. McIntosh not to let this sort of thing occur again, and to return it and classify it correctly. The resident engineer estimated the day I was there that some 1,800 yards of muskeg had been taken out to date, and he would have returned all this as solid rock if I had not stopped him. You can conclude from this, what sort of classification has been made on Mr. McIntosh's division since the June estimate went in.

'Mr. McIntosh claims he was not influenced by Mr. Grant's remarks, but something has influenced him to classify in this extravagant and improper way.

'It is to be noticed that he is the only engineer picked out by Mr. Grant as one capable of classifying properly, and Mr. Grant suggested to me that Mr. McIntosh be appointed assistant district engineer, with headquarters at Winnipeg river, and that the whole of the classification in this district be left in his hands.

'Under ordinary circumstances Mr. McIntosh should be discharged, but as something has influenced him to classify in this extravagant way I thought it better to refer the matter to you rather than deal with him myself.

'If common excavation and loose rock are to be lumped wholesale into the column for solid rock against my orders I wish to be relieved of all responsibility.

'I told all the engineers to be as liberal as they possibly could in the classification of mixed material and always to give the contractor the benefit of the doubt if any sort of argument could be used to classify this material as loose rock, but they must strictly draw the line in returning solid rock where solid rock does not exist.

Yours truly,

'A. E. HODGINS,
'District Engineer.'

Now I will read the letter of September 3 from Major Hodgins to Mr. Lumsden :

EXHIBIT No. 17.

'Private and Confidential. 'KENORA, ONT., September 3, 1907.

'HUGH D. LUMSDEN, Esq.,
'Chief Engineer,
'Ottawa.

'DEAR SIR,—I hope you have not forgotten that it would be necessary for you to continue your investigation of Mr. Grant's charges in his report on this district.

'So far I have only shown the report to two engineers, Messrs. Heaman and McIntosh. Both said it was a misrepresentation of facts and was unprofessional.

'I showed it also to Messrs. Hazelwood and J. D. McArthur, who said that a report like that should not have been sent in. Mr. Hazelwood said that any little kick, such as the want of a drain and a few other things had been exaggerated 1,000 times.

'I asked Mr. McArthur if he thought it fair, and I told him that I had not showed it to the engineers on the work, and asked him to have the charges against the engineers denied from his office as he knew them to be untrue. He replied that he could not do that, as it would make him appear a fool in the eyes of the Commissioners, as Mr. Grant was sent up to help him out.

'Yours truly,

'A. E. HODGINS,
'District Engineer.'

Q. Who is Mr. Hazelwood?—A. He is Mr. McArthur's engineer, the contractor's engineer.

Q. This is a letter you received from Mr. McArthur, dated August 9, 1907 (exhibiting letter)?—A. Yes.

EXHIBIT No. 18.

'(Personal.) WINNIPEG, August 9, 1907.

'A. E. HODGINS, Esq.,
'District Engineer, Transcontinental Ry.,
'Kenora, Ont.

'MY DEAR HODGINS,—I hear that you arrived safely home and trust that you had a successful trip.

'I have heard nothing from the east for three weeks or more, so that if you contemplate coming into the city Monday night or so I wish you would let me know so that I would arrange to meet you, as I would like to have a chat with you.

'I must congratulate you on the July estimate, as there is some encouragement in receiving an estimate like this, and if things continue along this line I am positive that I will see daylight soon.

'Trusting that this will find you enjoying the best of health as it leaves me at present, I am

'Yours very truly,

'J. D. McARTHUR,'

Q. I notice in one of the letters a reference to a meeting of the commissioners with Mr. Grant and the chief engineer on August 23. I want to ask you if you were present at that meeting, or were notified of it?—A. No. It was in Ottawa, I believe.

Q. It was in Ottawa, yes? Then I will put in and intend to ask you some questions about a letter from Mr. Parent, the chief commissioner, on August 24, to the chief engineer, Mr. Lumsden (reads):

EXHIBIT No. 19.

OFFICE OF THE CHAIRMAN,
'August 24, 1907.

'HUGH D. LUMSDEN,
'Chief Engineer,

'DEAR SIR,—Herewith you will find copy of a memorandum I sent to-day to the secretary of the board, and copy of his reply, which explain themselves.

'It has become evident to me that things have not been conducted so far in district 'F' as they should. This fact was particularly impressed on the commissioners as a result of conversations we had with the engineer in charge, Mr. Hodgins, and also of complaints made repeatedly by the Grand Trunk Pacific Railway Company regarding the unsatisfactory progress of work on that section. With a view of securing fuller information on the various parts of the work now under way, namely in district 'F,' the commission deemed it advisable to appoint an inspecting engineer who would keep us posted as desired, and Mr. Gordon Grant was called to fill the position. He went over the ground and made a report which was submitted to the board, showing that the engineer in charge of district 'F' and his staff of assistants, with a few exceptions, had not devoted to the work in hand all the attention which could reasonably be expected. Among other things it was stated that the district engineer and his assistants had neither of them since construction began gone over the work as they should have done. In the opinion of the inspector reported to the board the classification of the work has been faulty. In his report replying to that of

Mr. Grant, Mr. Hodgins suggests as a remedy for these defects, that the resident engineers should be the ones to look after the classification. For my part, I entirely disagree with this view. Such a policy would certainly not be conducive to the uniformity desired, and judging from our present experience there, we would very likely have as many different ways of classifying the work as there are engineers. In certain cases the classification would be too strict, and on others, not enough. And again, some engineers on their own judgment might be inclined to put under the arbitrary description of 'force account' items which should be duly classified. This practice cannot be allowed under any circumstances, and entirely contrary to the contracts.

'There is a letter from Mr. Hodgins, dated the 6th inst., addressed to you, which should have been submitted to the board, together with document No. 4 attached, so as to give every available information on the subject.'

Q. Just here I would like to ask whether that letter I put in yesterday, of August 6, and the document No. 4 attached, are the ones we have been referring to as relating to that transfer of classification from common excavation and loose rock to solid rock?—A. I presume so.

'They came to our notice incidentally. It would appear from its contents that after certain items had been classified a change was deemed necessary, and other classifications made which it would seem received his approval.'

Q. Is that last statement true?—A. I passed the July estimate when it first came to my notice because of the explanation Mr. McIntosh had made in that statement which was attached, and I saw Mr. Lumsden. I wrote to Mr. Lumsden about it, and also saw him and told him I was going out to look over it. I did not like the sudden jump in classification without any reason, and I put it down to Mr. Grant's being on the work.

Q. I want to fix the date of that interview with Mr. Lumsden?—A. I cannot fix it. I think it was about the 12th or 13th, the time he came up to start the investigation on the work.

Q. The 12th or 13th of what?—A. Of August. He was up there about that time.

Q. Where did the interview take place?—A. This took place in Winnipeg. We had gone from the work to Winnipeg. I think I sent back to the office to get that statement of Mr. McIntosh's showing the change and showed it to him in the hotel, and told him I had already sent it to him.

Q. The statement is made that this classification had received your approval?—A. It may be claimed that it had received my approval because I had passed it in one estimate.

Q. The July estimate?—A. The July estimate.

Q. And after that you had seen Mr. Lumsden about the 13th of August?—A. I had seen Mr. McIntosh after that, and his explanation was not satisfactory and I cut it out of the August estimate.

'Such a state of affairs shows that there has surely been negligence somewhere in the management of this district, and, from a consideration of these facts, the natural inference would be that the district engineer is not competent to handle properly such work as he is now entrusted with. Under the circumstances, it is the duty of the chief engineer to take whatever means are required to put a stop to conditions which have already existed too long. Among the points of first importance requiring your attention is to find and suggest a way to the different district engineers and others to ensure, as much as possible, a uniform classification according to the plans and specifications on which the contracts are made with the contractors. It is essential that there be no misunderstanding on the subject. In this connection I might point out that the Commission never authorized any one, nor can it do so, to disregard in any respect the letter of our contracts and specifications, which must be the only guide to go by, and that for no reason can anything be paid to the contractors or their sub-contractors which is not provided for in the same. At the same time it must be borne in mind

that contractors are entitled to a fair and reasonable classification, based as already stated. We cannot deprive them of what is rightfully their own under the contracts and specifications.

'It was mentioned to you that Major Hodgins had stated that he had changed the classifications of certain items of work in order to meet our wishes. In that case he should be informed at once that no such changes should be effected, as any instructions to that effect must come direct from you; and, moreover, inasmuch as the Commissioners never instructed him yet in that sense, nor did they express the desire to Mr. Hodgins to make any such changes interfering in any way with his right to make classifications just and reasonable, based upon the specifications.

'Furthermore, in order to avoid the risk of any difficulty later on, it should be made a rule, as far as possible, that the classifications receive the approval of the engineer representing the Grand Trunk Pacific Railway at the various points where there is work going on.

'In conclusion, as documents explaining changes made in certain estimates of District 'F' were added to the same after they had gone through and without our seeing them, I must decline the responsibility of certifying to the said estimates before being furnished with a full explanation of the matter.

'Awaiting a reply at your earliest convenience,

'Yours truly,

'S. N. PARENT,
'Chairman.'

Q. I now propose to hand in Mr. Lumsden's letter in reply to Mr. Parent, which reads as follows:—

EXHIBIT No. 20.

THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.
OFFICE OF THE CHIEF ENGINEER,
OTTAWA, August 27, 1907.

Hon. S. N. PARENT,
Chairman, Transcontinental Railway Commission,
Ottawa, Ont.

DEAR SIR,—In reply to yours of the 24th instant, I beg to say in regard to the unsatisfactory progress of the work in district 'F' that, in my opinion, this was attributable to the lack of labour and its quality, and not to the engineers on the work.

The district engineer, or his assistant, were not, in my opinion, on the work actually under construction as much as they should have been, but how far the latter's movements were governed by orders from his superior I am unable to say.

In regard to the classifications of the work, I am now, and always have been, of the opinion that the resident engineer on the work is the proper person to make the classification in the first instance, as he sees the work from day to day, and makes the necessary measurements. That his classification should be confirmed, or amended, by the division engineer, who should go over the ground with the resident engineer several times during the month, and this should be further confirmed or amended by the district engineer, or his assistant, who should go over the work with the division and resident engineer as frequently as possible, and see that the classification is as uniform as practicable throughout the district.

In regard to Mr. Hodgins' letter to me dated the 6th inst., this together with other letters and forms accompanying the July estimate, should have been handed by my accountant (who checks the estimates) to my assistant in my absence, and then sent to the board, but as heretofore these had not been asked for they were not sent. I shall see in the future that this is complied with.

MAJOR HODGINS.

Mr. Hodgins' conduct in issuing, without authority from me, orders to his division engineers to classify cuttings by use of force account, irrespective of the actual material in them, was unwarranted, and on his informing me of his having done so, I told him I did not and would not approve of any such order without authority from the commissioners. He gave me as his reasons for so doing that he understood this was the wish of the commissioners, and further stated that he had given these instructions owing to the statements made by Mr. Grant, inspecting engineer to sub-contractors and others, and also stated that he was influenced to do this from his knowledge that many of the sub-contractors would throw up the work if something was not done at once, and he relied on having a decision in regard to this matter before the end of August. As you are aware, Mr. Grant in his replies to questions asked him by me, denies having given any instructions, or having told the contractor, or his sub-contractors, that they were being unfairly dealt with by the engineers on the work, except on Scott's residency.

I have informed Mr. Hodgins both by wire and letter that you do not approve of his instructions; the classification must be as per contract and specifications; and the division engineers should be notified to so classify, and accompany their estimates with a letter stating that they have so classified, failing which the estimates will not be approved by me.

I also sent a letter to Mr. Hodgins enclosing copy of questions asked Mr. Grant and his replies thereto (copy attached).

In view of the present state of feeling in regard to district 'F' I have come to the conclusion that it might be well to replace Mr. Hodgins by appointing some engineer, who must be of good standing and extensive experience on construction in a rough country, in charge of this district, and that he be given another assistant district engineer as well as the present one, such assistant also to be a man of considerable experience on such work.

I agree with the idea that as far as practicable the classification on each district should receive the approval of the Grand Trunk Pacific engineer, and such approval should be obtained from time to time in writing, if possible.

I beg to hand you herewith copy of July estimate together with forms and letters referred to.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

I am going into force account a little later. I will not say anything with respect to the reference to it in the letter at the moment. On August 27th when Mr. Lumsden wrote from Ottawa was he in possession of your views with regard to that change in the July classification?—A. In August?

Q. Yes?—A. Well it was cut out of the August estimate.

Q. This letter written by him to you is dated on the 27th August. You say your interview with him was on the 12th or 13th August at Winnipeg?—A. Yes.

Q. I am asking you now so as to get it down to a focus was he aware at the time of writing that letter of your views?—A. Yes. We had discussed the subject of the transfer of common excavation and loose rock to solid rock. We could not understand it, neither of us could understand it. I discussed with Mr. Lumsden the question which was in that statement showing that so many yards of common excavation and loose rock had been transferred to solid rock and neither of us could understand it.

Q. So at the time you spoke to him in Winnipeg he knew that you were going to investigate, in fact he told you to do so?—A. Yes.

Q. Had you at that time approved of the change of classification or afterwards did you approve of it?—A. I had approved of it in the July estimate.

Q. You had passed it?—A. I had passed it——

Q. Do you know anything about his approving or disapproving of it?—A. I was not going to hold up the whole estimate for a small item like that.

Q. Did you approve of it when you met Mr. Lumsden and talked it over with him?—A. No, I understood it was stripping and the mixed wash of material you generally get when you are approaching rock.

Q. I am asking whether there was any justification for the statement that you had approved of this change of classification, that is all?—A. Excepting as I say in that estimate.

Q. And were you in that letter disapproving of it?—A. I told him, Mr. Lumsden, why I had signed the estimate. I told him I had passed the estimate. I think I had just got back from a trip when the estimate came in.

Q. And what did you tell him?—A. That I would go on the work and look at it, and he said yes I had better do that at once.

Q. And the result of that is shown in your letters which have been put in?—A. Yes.

Mr. CARVELL.—That would be the letter of September 6.

Mr. HODGINS.—September 14 and the previous letter. I think they were put in last night. I would like to get the letter from Mr. Lumsden to the chief commissioner dated Ottawa, November 19, 1907.

Document produced.

Mr. HODGINS.—I will now put that letter in (reads):

EXHIBIT No. 21.

OTTAWA, November 19, 1907.

Hon. S. N. PARENT,
Chairman,

DEAR SIR,—In regard to the last clause but one in Major Hodgins' letter to you dated the 9th inst., I may say that Major Hodgins did, as he states, take the responsibility of issuing the instructions to his division engineers, even though I told him I did not, and would not, approve of them without written authority from the commissioners, and I did not then and there order him not to do so, as he personally knew the feelings of his sub-contractors, or their intentions, better than I did, as mentioned to you in my letter of 27th of August. I did cut short my trip of inspection and hurried back to Ottawa, and verbally reported to the commissioners on the 19th instant. Major Hodgins doubtless believed that in issuing such instructions he was doing what he thought best as a temporary expedient, pending a decision which was sent him by wire on the 24th August, and I may say that the issuing of those orders by him was not my reason for suggesting a change of district engineers.

Yours truly,
HUGH D. LUMSDEN.

Q. Now, dealing with the question which is referred to in that letter, which Mr. Lumsden says was not his reason for recommending a change, you were asked for, I believe, and reported to the chief engineer, your reasons for suggesting the use of force account in connection with the classifications. Now, I propose to put in and read that letter, and then I want to ask you the circumstances under which the suggestion was made. The letter shows exactly what the witness did, it is from Major Hodgins to Mr. Lumsden, dated September 4, as follows:—

EXHIBIT No. 22.

'H. D. LUMSDEN, Esq.,
'Chief Engineer,
'Ottawa,

'KENORA, September 4, 1907.

'DEAR SIR,—In reply to yours of the 24th August, 1907, the reasons I had for giving the order to classify partially by force account were as follows:—

MAJOR HODGINS.

'The contractors were losing money on mixed material because of the continuous wet weather we have been having for the last two months.

'The rate of wages has risen from 17½c. to 25c. per hour since the contract was signed, and the quality of the labour very poor.

'Contractors claimed that if they did not get some of Mr. Grant's promises they would pull out, and that the government should not expect to get the work done for less than cost.

'Force account as a guide for classification, not as Mr. Grant suggested, but in the manner I explained to the engineers, would be justifiable under the present conditions.

'On the double tracking of the Canadian Pacific Railway resident engineers classify altogether by force account plus 10%. On the Grand Trunk Pacific branch similar classification to that I suggested is in force, and I am given to understand that force account classification is done on District ',' 'B.'

'After having explained these conditions to you at Mr. Willett's, and after the discussion between Messrs. Macfarlane, Willett, yourself and myself, it was finally agreed that it was the best thing to do under the circumstances, only you had no authority to sanction it. I informed you that I thought the commissioners would sanction my actions, as something had to be done at once. I pointed out that this re-classification could not be made in one estimate, as there was not sufficient time, and that there was ample time for you to return to Ottawa, lay the matter before the board and wire me before the estimate went in. I sent no written instructions to engineers.

'Since I received your wire instructions have gone out not to classify as I suggested, and the estimate will not be based on my suggested classification.

'The classification I proposed was in mixed material only, not solid rock, and in some cases we would not have been able to classify contractors up to the cost of the work. It would have amounted to very little and would have cheered everyone up and helped things along for the next month or two, when I hoped labour would be more plentiful. In many cases cuttings are going behind for want of sufficient men to work them.

'Yours truly,

'A. E. HODGINS.'

By Mr. Murphy:

Q. Now, I wish you would just tell me what the situation was on that District 'F' at the time that the chief engineer came up and saw you, about the 12th or 13th of August?—A. I had gone up on the work to investigate in connection with some of Mr. Grant's charges. I had first gone to the Winnipeg river, Mr. Willett's camp.

Q. When was this?—A. Just before Mr. Lumsden came up; it would be about the 8th or 9th of August. That date can be verified by a letter; there is a letter from Mr. Willett about it—and I met Mr. A. G. Macfarlane and Mr. Winett at their camp. We went over some of the work and discussed the classification. The contractor, Mr. Dutton, was kicking a good deal about classification in large cuttings and was kicking on the classification generally on Mr. Willet's work. Mr. Dutton was rather inclined to abuse these two engineers for not classifying as high as had been classified on Mr. McIntosh's division. We discussed the question pretty generally, classification and one thing and another, and Mr. Dutton said if he got some of the promises Mr. Grant made him that was all he wanted, but if he did not he would pull out.

By Mr. Hodgins :

Q. If he did not get that he would pull out?—A. He had 60 miles of work, he was the largest sub-contractor on the contract. I asked him what promises Mr. Grant had made him, but he laughed and said he would not tell me. Then I think he went away, and Mr. Macfarlane, Mr. Willet and I discussed matters generally. Oh, Mr. Dutton said, if he 'got enough to pull him out even,' those are the words he used, on that work, that was all he wanted.

Q. What would have been the effect of his pulling out, that is what I want to get at?

Mr. MURPHY.—I do not know whether this is permissible, this talk between this witness and a sub-contractor.

Mr. BARKER.—I presume it will explain why he acted in a particular way.

Mr. MURPHY.—I submit it is not proper evidence.

Mr. HODGINS.—It is perfectly good evidence.

Mr. LENNOX.—It is the best kind of evidence we can have as to why he acted in a certain way.

Mr. CARVELL.—Supposing these statements are all untrue.

Mr. BARKER.—That this conversation never took place, do you mean?

Mr. CARVELL.—That this sub-contractor made a lot of statements to this witness which were not true.

Mr. BARKER.—Still that would be the cause of Major Hodgins acting in a certain way.

Mr. HODGINS.—There cannot be any possible ground for shutting out the statements made by those on the work.

The CHAIRMAN.—You asked the witness what his opinion was, or what his understanding was of the words which were uttered.

Mr. HODGINS.—Pardon me, no, I did not.

The CHAIRMAN.—Then what do you take it to mean?

Mr. HODGINS.—My question is, what would the effect on the district be of Mr. Dutton pulling out.

The CHAIRMAN.—That is asking the question of the witness, what he understood it to be.

Mr. HODGINS.—No, pardon me, everybody understands what pulling out means—throwing up the contract—I want to know what effect the carrying out of that intention would have on the work.

Mr. MURPHY.—It was more particularly the question preceding that to which I directed the attention of the committee and to which I objected. This enquiry will be interminable and practically of no effect if conversations that may have taken place between Major Hodgins and all kinds and conditions of people are allowed to be repeated here according to the major's recollection of them. Mr. Dutton is not connected in any way with the commission.

Mr. CARVELL.—It will be simply impossible to send for every man on the work, if Major Hodgins chooses to bring his name into it, the commissioners will have the right to send for Mr. Dutton and every other man on the work, conversations with whom are repeated by Major Hodgins.

Mr. HODGINS.—Why not, if you say they are untrue, you can call them.

Mr. CARVELL.—I say, rule such evidence out and we wont have to call them, then. What I say is let Major Hodgins confine his evidence to what was said and done by the commissioners and any of the commissioners' agents or engineers; that is perfectly good evidence, but when it gets down to what may have been said between Major Hodgins and some entire outsider, I think it is entirely a stretch of imagination to give it as evidence.

Mr. BARKER.—Mr. Carvell is trying to get back into what was stated at the beginning; this is not a court martial of Major Hodgins nor a trial of the commissioners.

Mr. CARVELL.—It is a trial of the commissioners.

Mr. BARKER.—That is not the case, this is a question referred to us by Parliament to investigate.

Mr. LENNOX.—As I understand it among the matters referred to us is the question whether there has been improper classification.

Mr. CARVELL.—Oh no, to find out whether the charges by Major Hodgins are true or untrue.

Mr. LENNOX.—Among other things to ascertain whether there has been improper classification, the others are incidents.

Mr. BARKER.—We may as well settle the question at once. This committee are empowered to investigate not merely Major Hodgins' charges, but everything bearing upon the papers submitted to us.

Mr. CARVELL.—I submit that this committee is here to enquire into the truth or falsity of Major Hodgins' charges.

The CHAIRMAN.—That is it.

Mr. CARVELL.—That is all there is to it and I protest as strongly as I know how against any evidence being taken here except what will bear upon those charges.

Mr. LENNOX.—Here is what is referred to us:—

'Resolved: That the memorandum of the Chairman of the Transcontinental Railway Commissioners to the Prime Minister, of date the 23rd April, and laid on the table of this House on the 24th instant, and the papers accompanying same, together with the letter of Major Hodgins to the public press therein referred to, be referred to a special committee of five members, with instructions to investigate the matters and charges therein mentioned.'

Now we have to go to the papers laid on the table of the House and we have to include the letter of Major Hodgins, and whatever statements are contained in any of those papers we are to investigate; and one important statement contained in these documents laid upon the table of the House, and the most important statement contained in them is with reference to the question of the improper classification, and that I certainly propose to investigate, unless it is shut off by force.

Mr. BARKER.—All these papers are submitted to us.

Mr. MURPHY.—That does not cover the point I have raised. The witness was not discussing the improper classification which he alleges, with the commission or their agents, that is the reason why I objected.

Mr. HODGINS.—One of the charges is that Major Hodgins was removed for other than the alleged reasons, that the reasons given were not the true ones, and I propose to prove that Mr. Parent in his communication to the press, and also indirectly in the letter I have read, gives as a reason that Mr. Hodgins intended to change the classification by suggesting force accounts plus 10 per cent. Mr. Lumsden has said that was not the reason for suggesting his removal. I am now proceeding to give—I have the perfect right to give—the reason that actuated Major Hodgins in making the suggestion in order to show that the commissioners were entirely unjustified in saying that is the reason for his removal, as the chairman alleged. It is perfectly good evidence when a man is in a certain situation and has to take certain action, and his good faith in regard to this is impugned and he is dismissed for it, to show that the statements made to him by people connected with the work, and who were seized with the situation of the work itself, to show the grounds upon which he acted. He has a perfect right to demonstrate that he acted in good faith and in the interest of the commission, if they sought to show that as a reason for his dismissal, in order to throw aside the charge that he was dismissed for refusing to over-classify. No committee, it seems to me, with a reference to them such as this, can afford to shut out evidence from Major Hodgins to show the situation actually existing and accept no statement made by the contractor and by the sub-contractor which would show what was going to happen if a certain thing was done.

Mr. CARVELL.—I have no quarrel with Major Hodgins' statement at all, but that is not the point we are discussing. Major Hodgins is entitled to state here what he thinks are the true reasons why he was dismissed but that does not justify him in going outside of the commission, its officers and agents entirely, bringing in extraneous matters, conversations with outside parties, and putting that forward as his reasons for taking certain action. That is giving something to this committee and to the public which is not proper evidence; conversations of that kind do not in any way bind the commission or bind the government. I am not so much opposed to Major

Hodgins giving a statement as to why he resigned, but I do object to my friend, his counsel, attaining that object by improper methods and improper evidence.

Mr. BARKER.—It seems to me that the question is one much broader than that. Mr. Hodgins wished to explain why he took the action he did; when he recommended a certain system of dealing with the classification, subject to correction from Ottawa, through the chief engineer. He is going on to explain what the condition of things was, and what he heard from the men performing the work; that condition, and what he heard from these contractors were the circumstances that induced him to make that proposition. If that is not evidence in an enquiry of this kind I cannot conceive what is evidence.

Mr. MURPHY.—May I point out that the witness has not assailed, attacked, or impugned what was done on the work of these two engineers, Willet and Macfarlane, who are in charge of Dutton's work; he has been speaking of McIntosh's work; it would be a different thing. If he had something to do with the classification by McIntosh, on which Dutton could speak, but this is a different part of the line altogether; I submit it has nothing to do with the point.

Mr. LENNOX.—That is not the point, the witness's counsel desires to show why he took certain action; he wants to show that this man made certain statements to him, that he would throw up the work if he had taken a different course, and the question is what would have been the effect of this sub-contractor had pulled out.

Mr. MURPHY.—That is not the point.

Mr. CARVELL.—Mr. Murphy is raising objection to questions that were asked prior to that.

The CHAIRMAN.—Answer the question.

By Mr. Hodgins:

Q. What would be the effect on the progress of the work if Dutton had pulled out as he suggested?

Mr. MURPHY.—Now, did he suggest that?

Mr. HODGINS.—Well, he has already sworn that he did say it?

A. He did say it.

By Mr. Hodgins:

Q. What would be the effect on the progress of the work done if he had pulled out at that time?—A. It would have delayed it considerably, it would have led to a lot of confusion and delay, one contractor pulling out would have frightened a good many men away.

Q. How many miles of track had he?—A. 60.

Q. 60 miles, out of——what was McArthur's contract, 250?—A. 250. I thought that the situation was very serious, serious enough to take some immediate action and report the matter to the board, they could enquire into it.

Q. Having that view of it, then you met Mr. Lumsden, I understand?—A. He came up, I think the next day; I went down to Kenora and he came up the next day.

Q. Did he tell you what his purpose in coming up was?—A. He came up to go over the line and enquire into the charges made by Mr. Grant against myself and the other engineers in the division.

Q. To investigate the charges made by Mr. Grant against you and your assistant and resident engineers?—A. Yes.

Q. To what extent did he go over the line at that time?—A. He just went over about five miles from the Winnipeg river.

Q. About five miles. He says in his letter he cut short his trip and hurried back to Ottawa to get a decision?—A. When he came up I laid the situation before him, and I told him that I had instructed Macfarlane and Willet to go over their piece of work and find out what the difference between the classification by force account and the classification that Willet had put on that particular piece of work would be, if they

could, in order that when Mr. Lumsden and I came up we would be able to compare the two.

Q. Yes?—A. And when he came up I explained all this to him. We walked over the work and saw some cuts where the classification was in dispute. He questioned Willet very closely about the classification in each cutting and made notes of it in each cutting as to what classification had been given, while Mr. Hazelwood and Mr. Tye, the contractor's engineers, were there; they objected to some of the classifications, but when Mr. Lumsden came back to Willet's camp I understood from Mr. Macfarlane, the resident engineer, that Willet's classification was entirely satisfactory.

Q. To whom?—A. To him.

Q. Who is 'him'?—A. To Mr. Lumsden.

Q. Then you met at Willet's camp?—A. We met at Willet's camp.

Q. Who were present?—A. Dutton and Tye, Hazelwood, Macfarlane, Willet and myself.

Q. Now, what information had Mr. Lumsden as to the state of affairs on the division and the situation at that moment, which you say you regarded as serious?—A. He had come up to settle everything up there.

Q. He had come up to settle everything?—A. Yes.

Q. What knowledge had he? What knowledge did he get from you and others in regard to the situation and its seriousness?—A. We all discussed the situation; he talked to every one there—to the contractors, the contractors' engineers and to us.

Q. Yes?—A. And he did not suggest anything. He said something had to be done, or ought to be done. Then I suggested that I would take the responsibility upon myself until he could come down to Ottawa and see the board and wire me to give an order to classify the disputed material in mixed cuts by force account.

Q. That you would classify the disputed material by force account?—A. I would not allow the introduction of any solid rock which did not exist. He said that was an easy way of getting over the disputes between the contractors and the engineers. On mixed cuttings there was continual dispute with the contractors' engineer, Mr. Hazelwood. When Mr. Lumsden was going over the work with Mr. Willet there was some question came up as to the amount of loose rock to be allowed in a certain cut, and Mr. Hazelwood claimed that if one yard was allowed there the whole cutting should be loose rock. The argument seemed to be never-ending one way and the other, and I thought this was the quickest and easiest way of settling it.

Q. Did Mr. Lumsden disapprove of it and forbid it?—A. No; he did not disapprove of it and he did not approve of it. He said to me: 'You must distinctly understand I can give you no authority.'

Q. And at that conversation what did you say?—A. I said that I would take upon myself the responsibility, as I thought this was what the commissioners wanted—to keep the work pushed on.

Q. What did he say to that?—A. I asked him if he would cut his trip short and go down and take this matter up with the commissioners, and the inspection on the line with reference to Grant's charges might rest for a little while.

Q. That Mr. Grant's charges might rest until this was settled?—A. He said he would have to go to Winnipeg anyway before returning to Ottawa, but that he would return to Ottawa. I went on to Winnipeg with him, I think, the following day.

Q. On the following day?—A. Yes.

Q. Did you have any discussion with him again?—A. No, but he had with Mr. McArthur; I think he had a conversation with Mr. McArthur.

Q. Had he any conversation with you?—A. No; before he went away he called me up to his room to read a draft of a letter I think he was going to put in.

Q. Put it to whom?—A. To the board; and then he went——

Q. Was that the same day or the day after he arrived?—A. The day after he got in.

Q. And he left for Winnipeg; did you go with him?—A. I went to Winnipeg with him.

Q. Did he return from Winnipeg to Ottawa?—A. He went straight to Ottawa, and he was to send me a wire, 'Yes' or 'No,' in five days from the day he left Winnipeg.

Q. And you got the wire?—A. I got the wire saying the commissioners would not approve.

Q. Then had any change, in fact, been made? Had the orders been acted on, in fact, between the two dates?—A. No. I got a statement from every divisional engineer stating that these estimates had not been based on my order.

Q. So that whatever the suggestion was it was never carried into active operation? —A. No.

Mr. MACDONALD.—Do I understand the major to say that although he suggested to Mr. Lumsden as to what was to be done, nothing was done under it?

Mr. HODGINS.—Nothing was done under it.

Mr. MACDONALD.—How were matters conducted then?

By Mr. Hodgins:

Q. How were matters conducted then? You say this suggestion of yours as to force account was not acted upon and Mr. Macdonald wants to know what was done? —A. The order from Mr. Lumsden was that the commissioners insisted that the specifications should be carried out.

Q. Would that annul any change in the basis of classification in your division? —A. Oh, that settled that question.

Mr. MACDONALD.—That is not the point, the question I wanted to ask was what was done during the five days that intervened.

By Mr. Hodgins:

Q. What was done by your engineers during the five days which elapsed after your order had been given?—A. With regard to carrying it out?

Q. Yes?—A. I do not suppose it would be very much, it would have taken two or three months to adjust everything under that order.

Q. It would take two or three months to adjust it on that order?—A. Yes.

Q. Do you know to what extent they had gone on with it during those five days? —A. Some of them hadn't done anything, they hadn't taken notice of it, they could not.

By Mr. Carvell:

Q. When you suggested 'force account' did you mean that they were to go back for, say, two or three months or was it only to be from that time forward?—A. They were to investigate every case of dispute, wherever there would be disputed classification, instead of letting that dispute go on until the end of the work with the possibility of their being a lawsuit about it, that was my way of settling it, and I offered my suggestion.

Q. That it was to be retroactive and also to govern in future?—A. Only in cases where the material was in dispute.

Q. I understand that it was only in case of dispute, and that it would include the 5,000 or 6,000 yards of common excavation or loose rock that had been transferred to solid rock?—A. Yes, we would have got what the actual cost had been, we would have compared our own timekeeper's book with the record of the contractor.

By Mr. Barker:

Q. Instead of paying the schedule price for solid rock?—A. Yes, and arrived at a fair estimate of the cost. Of course in some cases, if the work had been very costly it would have been impossible to have brought the contractors out even on that basis.

But that of course would be their own fault if they had not done the work as cheaply as they might have.

By Mr. Hodgins:

Q. Do you mind explaining what force account is?—A. The actual cost of the work.

Q. Whose actual cost?—A. The contractors.

Q. What contractors? McArthur's or the sub-contractors?—A. It would be the wages that are paid to the men actually on the work.

Q. Take McArthur. He had sub-let this 60 miles to Dutton. Now had Dutton sub-let that?—A. Oh, yes.

Q. The sub-contractor had sub-let?—A. In some cases, yes.

Q. Then we step down four or five times before getting to the man who actually did the work?—A. Yes.

Q. And is force account based on the cost of that man or to McArthur?—A. Well force account would be based on the actual wages paid including the foreman to which 10 per cent is added.

Q. By the man who actually did the work?—A. Yes, that would be the cost of the work. Then 10 per cent would have been added to that.

By the Chairman:

Q. And the use of the plant?—A. That includes the use of the plant, tools and a profit. It is practically the actual cost, there is very little profit in it.

By Mr. Hodgins:

Q. It is not based, as I understand you and I want you to make it clear, it is not based on the contractor's prices?—A. Well it might have been say practically at cost or it might have been put into the estimates at so many yards of loose rock and so many yards of common excavation.

Q. At the contractor's prices?—A. At McArthur's prices.

Q. That is what I say, at McArthur's prices. When you speak of force account, plus 10 per cent, I want to get what the basis of that is. For instance, take solid rock and apply force account to that. You would take the cost to the man who actually did the work, would you not? How much would he get per cubic yard?—A. Yes, certainly, but not the sub's prices. I see what you mean. If the commissioners had approved of that way of classifying it would have been based on McArthur's prices, not on the sub's, do you see. Supposing the cost of a piece of work would be say $1,700 and it would be rock work——

Q. Let us take something there is no dispute about. As Mr. Barker points out solid rock is a mistaken illustration. Take loose rock?—A. To reduce that $1,700 to yards you divide by the price that McArthur was getting, not the price the sub was getting.

Q. That is only the arithmetic to make it harmonize with the contractor's prices. What I want to get at is, supposing you apply force account to loose rock?—A. Yes.

Q. Whose cost would you take as a basis, the 60 cents? What is McArthur getting?—A. 60 cents.

Q. Would you take as cost the 60 cents or what it cost the man who actually did the work?—A. Oh, no, McArthur's prices.

Q. I don't think you understand.

Mr. MURPHY.—The witness should explain himself. He may not be giving it the way it is wanted, but let him give his own explanation.

By Mr. Lennox:

Q. I understand it is this way: if you take the number of men that are on the work——

Mr. MURPHY.—I decidedly object to this.

The CHAIRMAN.—I think so. We have no right to give the answer of the witness.

APPENDIX No. 5

By Mr. Hodgins:

Q. When you speak of force account you mean the actual cost of the work?—A. The actual cost of the work plus 10 per cent.

Q. How do you ascertain that?—A. By taking the time of the men on the work, the wages.

Q. Taking the wages paid by whom?—A. By the contractor.

Q. I don't know who the contractor is. By whom? Give us an instance?—A. By McArthur.

Q. Paid by McArthur. Was McArthur paying those men who were actually doing the work or had he sub-contracted it out and that man had sub-contracted it again?—A. He was responsible for the wages.

Q. I don't care whether he is responsible or not. I want to know how you arrived at the basis of the cost of the work. You take the wages that were paid by the man who is doing the work?—A. Exactly.

Mr. MURPHY.—Cannot the witness answer himself?

The CHAIRMAN.—You must leave it to the witness to answer. Ask a question and let him answer.

Mr. CARVELL.—I think it is a misunderstanding between the witness and counsel.

The CHAIRMAN.—I think so.

The WITNESS.—I am in the dark.

Mr. BARKER.—Every interruption sets him back.

The CHAIRMAN.—I know, but we must have the evidence from the witness in a regular manner.

Mr. LENNOX.—I understand that any member of the committee has a right to ask the witness a question at any stage.

The CHAIRMAN.—Certainly.

Mr. LENNOX.—I think I can explain what the witness wants to get at. It is the actual cost of the men and the horses plus 10 per cent.

The CHAIRMAN.—Why not let him explain that himself.

Mr. LENNOX.—As a member of the committee I have a perfect right to ask him that.

The CHAIRMAN.—Yes, but not to answer for the witness.

Mr. BARKER.—Let him answer.

The WITNESS.—The actual cost includes everything.

By Mr. Hodgins:

Q. Of course it includes everything but we want to know how you are going to make it up?—A. From our timekeeper's record.

Q. From the timekeeper's record of the men. Does the timekeeper keep a record of what each man whose time he keeps is getting per hour or per day?—A. Yes.

Q. And he notes that?—A. Yes.

Q. Who does he find that out from?—A. He counts the men on the work.

By Mr. Barker:

Q. How does he get the rate of wage paid?—A. From the contractor. From the sub-contractor on the work, the man who pays.

By Mr. Hodgins:

Q. What I want to get, if you can give it to me, is an accurate description of the person he gets it from. We know that McArthur has a contract for 250 miles and Dutton for 60. Is it either of these that he asks for the wages of the men or someone else? Who does he ascertain the rate of wages from?—A. From the book-keeper of the sub-contractor, the man who is doing the work.

Q. Is the sub-contractor doing the work?—A. Yes. It may not be Dutton but somebody else.

Q. That is the cost is it?—A. That is the cost.

Q. And that is the cost to which 10 per cent is added?—A. Yes.

Q. And if you ascertained that, you said a moment ago, in some cases you could not bring the man out even?—A. Yes.

Q. How is that?—A. There may not be enough yards in the cutting.

Q. Enough yards at McArthur's prices?—A. At McArthur's prices.

By the Chairman :

Q. In your experience as an engineer, under what circumstances do you generally apply that system of force account in the construction of railways?—A. If there is anything the contractor is asked to do that is not mentioned in the contract.

Q. If what?—A. If you want the contractor to do any kind of work that is not mentioned, or specifically mentioned, in the contract, that is not included in the general description of the work he has to do, there is a clause in our specification——

By Mr. Barker :

Q. Which specially provides for that?—A. That such work is done in that way. Extra work we call it.

By Mr. Hodgins :

Q. Paid for in that way?—A. Paid for in that way.

By Mr. Barker :

Q. That is for work not mentioned in the schedules?—A. It is generally in every specification. Sometimes it is 15 per cent. Clause 35 of the specifications reads:—

'In addition to the foregoing contract price the Commissioners will pay to the contractor for extra work, or for work done under written orders of the engineer not covered by this agreement, but done in the proper execution of this contract, and for which prices are not named herein, the actual cost of such work, with an additional ten per cent on the cost of labour and material for the use of tools, contractor's plant, superintending and profit, but such actual cost shall not exceed the reasonable market value of such labour and material, as the case may be.'

By the Chairman :

Q. That is for extra work?—A. An additional ten per cent.

Q. But do you apply it to contracts generally sometimes?—A. It altogether depends.

Q. How is that?—A. It altogether depends. You must have—an engineer could not do it on his own authority. He must have higher authority for it.

By Mr. Hodgins :

Q. He must have higher authority for it. An engineer cannot do it under his own authority, he must have——?—A. He must have authority from his superiors.

By Mr. Carvell:

Q. Before you leave this branch of the case. If force account, that is the actual cost, including the wages, and ten per cent added, applies, and it amounted to more than the cutting would figure out at McArthur's schedule of prices, according to your proposition would the commission be paying more than the contract provides for?—A. You see, we don't go into any of those things.

Q. It is a fair question and I want a fair answer. If force account, plus ten per cent, applies and figures out more than the cutting would figure out according to McArthur's prices, then, under your proposition, would the commission pay more than the contract provides for?—A. It would just depend how that cut was classified. The dispute was this: that we were not giving enough classification. Therefore, it is to be presumed that this way of getting out of it, this force account arrangement, would have increased it.

Q. You are not answering my question?—A. I do not quite catch onto it.

Q. You understand the point?—A. No; I do not, honestly. Let me get it now.

Q. Major Hodgins, I will get you down to loose rock?—A. Yes.

Q. I want this thing understood. We will say that the contract price was 60 cents for loose rock, that the one cut would be loose rock and there were 100 yards of it?—A. Yes.

Q. That would be $50?—A. Yes.

Q. Classifying it according to the contract?—A. Yes.

Q. Now, if you carried out force account, and took out of that cut 100 yards and it came to $75 actual cost, then, as I understand it, the commission would be paying $75 for that work?—A. Yes.

Q. That is right, is it?—A. Yes.

Mr. Hodgins.—Be fair to the witness. He said it was only in case of dispute.

Mr. Carvell.—I do not care what he says; I want to get the right understanding of this matter.

The Witness.—$75 would be the actual cost.

By Mr. Carvell:

Q. Now, I want you to tell me what is the difference between adding on $15 by force account and adding on $15 by a change in the classification?—A. You must get authority for both.

Q. That is the only difference, is it?—A. You must get authority.

Mr. Carvell.—That is a fair answer.

Mr. Hodgins.—The witness said you must get authority for both.

Mr. Macdonald.—That makes no difference. That is not an answer to the question.

Mr. Barker.—What he says is this, and Mr. Carvell wants to ignore a very important part of what he has stated.

Mr. Carvell.—No, I do not. I think I am at the gist of the whole question.

The Witness.—You see, the contractors claimed this——

By Mr. Hodgins :

Q. Mr. Carvell has asked you a question based on the specifications for loose rock in which he says there is no doubt as to how it is to be classified. If there is no doubt as to how it is to be classified would any question as to the application of a different principle come in?—A. It would not.

Q. This is only, as I understand, in case of a dispute as to classification, the contractor claiming that it should be a higher classification?—A. Exactly.

Q. And the engineer claiming a lower classification?—A. Classified as he put it in.

Q. This, as I understand, is an arbitrary way of extending cost to the man who does the work, adding 10 per cent and paying him that amount?—A. Exactly.

Q. And if you want to turn that into yards at McArthur's prices you get the larger price and with less yards the result may be that perhaps you will not cover the actual cost—I mean that the contractor won't get what he expects.

Mr. Carvell.—By force account he will get the cost?—A. He would come out even. He said that was all he wanted. We discussed it and the engineers there, Mr. Macfarlane and the others, agreed that was the easiest method.

Mr. Carvell.—It prevents contractor from making a loss.

Mr. Hodgins.—It makes all the difference whether you arrive at the cost on the basis of the lower price because the contractor doing the work is paid less per yard.

The Witness.—When this question came up I was against it and I said I would not do it. The next morning I said to Mr. Macfarlane 'Well it will certainly settle the disputes and the wrangling and I think it is the easiest way.' Mr. Grant certainly suggested using the cost, the timekeeper's notes, as a guide to engineers to classify.

So I said we would do it. I was strongly recommended to do so by Mr. Macfarlane and I think Mr. Willet and it was put up to the board to decide.

Q. It was put up to the board to decide. Then you wrote a letter to the chairman on November 19, 1907, in consequence of what you saw in the press as to his giving the reasons for your dismissal?—A. Yes.

Q. Do you remember that press item?—A. Yes.

Q. Did you forward to the chairman a clipping of the press item?—A. I don't remember.

Q. Is that the statement in the press which you referred to when you wrote, I am surprised to see in the press your reasons for my dismissal' (exhibiting newspaper clipping)?—A. Yes.

Q. This statement was said to be made by the Chairman of the Transcontinental Railway Commission in Ottawa and the date is November 5th:—

EXHIBIT No. 23.

CHAIRMAN PARENT EXPLAINS CASE.

Gives the Reasons of the Commission in Retiring Engineer Hodgins.

Ottawa, November 5.—The Chairman of the National Transcontinental Railway Commission, Hon. S. N. Parent, made a statement to-day in reference to the removal of Major Hodgins, the engineer in charge of the division of the line to the west of Superior Junction, and the resignation of his assistant, Mr. Heaman. Mr. Parent stated that all the correspondence in the case would be laid before Parliament and it would clearly show that there can be no criticism of the action of the commission in removing Major Hodgins. It will be found, Mr. Parent says, that the commission acted in the best public interest in handling a matter in which the expenditure of public money is involved. The trouble has its foundation in an attempt to have the work carried on upon Mr. Hodgins' division contrary to the terms of the specifications under which the contracts were let. It was proposed by the engineers to change these specifications on their own authority in some cases and to allow the contractors the cost of construction and 10 per cent additional for profit instead of compelling the contractors to do the work under the terms of the original contract. This the commission would not tolerate.

The letter is as follows (reads):—

EXHIBIT No. 24.

Kenora, Ontario, November 9, 1907.

Hon. S. N. Parent,
Ottawa.

Dear Sir,—I was surprised to see in the press your reason for my dismissal, and only conclude that Mr. Lumsden did not represent to you what the circumstances were and what action I proposed to take, subject to the Board's approval.

Did he tell you that the situation was serious, that sub-contractor Dutton (McArthur's largest sub-contractor) threatened to leave the work and throw up his contract if he did not get some of the promises made to him by Mr. Grant, and unless I did something to guarantee him that he would not lose money; it was no use his wasting his time. He also said Mr. J. D. McArthur had told him the engineers had their orders from the commission. (Engineer Tye confirmed this.)

I told those present that I understood that the chief engineer had received orders the day I left Ottawa to do something to settle all disputes and get the work done.

The chief arrived, but suggested nothing; approved of the classification the contractors said was too low; offered no advice, but sat and listened to all we had to say.

I proposed the easiest way to settle cases of disputed material other than rock was to ascertain the cost and classify enough loose rock to bring the contractors out even,

adding ten per cent for use of tools, office expenses and profit. The chief said he had no authority to do this, and admitted that something should be done.

I proposed then that I would give the orders and be responsible until he laid the case before the board. He agreed to this, and told me to remember he could give me no authority. I said if he laid the case forcibly before them they would agree to it, because it was a sound business proposition.

Messrs. A. G. Macfarlane, Willet, Hazelwood, Tye, the chief and myself were at Willet's camp at the time. The first two have notes in their diaries of what took place. In justice to me, you ought to ask for copies of these notes.

I told the chief I thought it was what the commissioners wanted, if we could believe what Grant had said, and it would put it up to them to say if they backed him up or not; the air was full of rumours.

I told the chief I would act as commissioners Young and Reid had advised. They told me to take as much responsibility as I could and push the work along and report after, and under all circumstances not to delay the work pending a decision from Ottawa. The chief admitted that it was a good way out of the difficulty, and again said: I can give you no authority. I replied: You can get the authority when you return to Ottawa, and wire me. He agreed then to cut short his inspection over the district and hurry back to Ottawa in order that I might know what the commissioners decided before the estimates went in. In the meantime, it was understood that I was to go ahead unless I heard from him. We figured out that I should have a wire in five days, and as it would take about three months to adjust all disputes included on the lines I laid down, the contractors and engineers would not be wrangling over little things, earth was earth, and loose rock was indefinite in the specifications on account of the plough test. The bulk of the contract was solid rock and was not to be included. When I told him I would not allow solid rock to be included he was perfectly satisfied.

We went to Winnipeg together, and he had lots of time to change his mind and order me not to do it if he had wished to. Instead of that he reminded me of a somewhat similar case on the Canadian Pacific Railway short line through Maine, when he took over the management and Mr. James Ross took the contract; and I understood him, he was going to use this in his argument to the board in favour of my action.

I explained all this to Mr. Young in Winnipeg, who told me that the commissioners could not do what a board of railway directors might, because the latter did not have to submit it to parliament. This was news to me.

If the responsibility I took to keep the men on the work, stop wild talk and settle disputes until such time as the board could have the case laid before them and deliberate on it, and took the means of laying the case before the board through the chief engineer, and if, in my judgment, I thought I was doing the right thing, if this is a serious offence, why did not the chief engineer object on the ground and as chief engineer order me not to do it, and if I persisted discharge me?

All I want is fair-play, and if I had differences of opinion with the board and some of the engineers, I have done my best during the three years I have worked for the commissioners.

Yours truly,

A. E. HODGINS.

Now I will put in two other letters (reads)

EXHIBIT No. 25.

S. N. PARENT, K.C.,
Chairman,
G. F. McISAAC, K.C.,
ROBT. REID,
C. A. YOUNG.

HUGH D. LUMSDEN,
Chief Engineer.
P. B. RYAN,
Secretary.

The Commissioners of the Transcontinental Railway,

Ottawa, Ont., Sept. 11, 1907.

Personal:

A. E. HODGINS, Esq.,
District Engineer,
Kenora, Ont.

DEAR SIR,—On my return from the west, I found a report put in by the chief engineer in explanation of your issuing instructions to have the work classified by force account in which he states that you understood it was the wish of the commissioners to do so. I cannot but feel that the chief engineer must have misunderstood you in this matter, as it is quite contrary to the reasons you gave me when in Winnipeg; and as you never received any intimation to classify contrary to the contract and specifications from myself or any of the commissioners, you, I am sure, would not wish an inference of that kind to remain uncorrected.

Please let me hear from you by return mail.

Yours very truly,

C. A. YOUNG.

The answer to that letter is as follows: (reads)

EXHIBIT No. 26.

KENORA, Sept. 16, 1907.

C. A. YOUNG, Esq.,
Commissioner,
Ottawa.

DEAR SIR,—In reply to yours of the 11th instant, I have to say that I did mention to you that I thought I was doing what the commissioners wished, and you replied that you had never spoken in favour of more than a liberal interpretation of the contract. I replied that it was no use beating about the bush, I know what you want, and I think in fairness to me, between ourselves, you might acknowledge this.

The better argument in favour of the style of force account classification I advocated, was that it would relieve the situation temporarily and carry the work on until men were plentiful. I laid stress on this with the chief. He was particularly careful to say that he would not give me any orders, and we agreed that no time should be lost in his return to Ottawa to lay the whole matter before the board and wire me. He did so, and although his wire was delayed the estimates were not made up on force account classification. Possibly you may find out later that my advice was sound.

Give me a fair show, that is all I ask.

Yours truly,

Q. Now I propose to take up for a few minutes the report of Mr. Grant and then I will conclude Major Hodgins' examination by putting in some minutes and letters

between the commissioners and Mr. Morse regarding the importance of carrying on the work of this division promptly. The report of Mr. Grant, inspecting engineer, was made to Mr. Lumsden and is dated 23rd July. It appears on the file laid on the table of the House of Commons some time ago. I want to ask you as to the statements in this report and as to their truth?—A. I asked for an enquiry into these and it was never given me. Mr. Lumsden came up and as I say went over five miles and asked me to get some statements from some of the engineers about certain charges.

By Mr. Macdonald:

Q. Who asked for the enquiry?—A. I did.

Q. Who did you ask?—A. When I was brought before the board to answer these charges in Ottawa.

Q. Did you ask anybody else?—A. I was before the board.

Q. Did you ask anybody else for an enquiry?—A. Yes, I have.

Q. Who did you ask? (No answer).

By Mr. Hodgins:

Q. Did you ask anybody else for an enquiry other than asking the board for it on the 21st August?—A. About this particular report?

Q. About that report?

Q. You say you asked the commissioners for an enquiry, did you?—A. Yes, personally.

Q. Did you ask anyone else?—A. I don't remember.

Q. And did Mr. Lumsden come up to begin the enquiry?—A. He came up to begin it, yes.

Q. And he cut it short, as you told us?—A. Yes, he asked me to get a statement from each engineer who had seen Mr. Grant as to the various charges that Mr. Grant was making against them.

Q. Did you get these statements?—A. I got some of them. I was getting them when I received notice that I was discharged.

Q. You were getting them when you received notice that you were discharged. Did Mr. Lumsden, up to the time you were discharged, ever go over the road and complete that investigation?—A. No.

Q. Did you send Mr. Lumsden the originals of a number of those statements?—A. Yes.

Mr. HODGINS.—I asked for their production. I am not going to pretend they are evidence, but I am going to call the engineers to verify them and I want the originals produced by Mr. Lumsden or by the commissioners and placed in the hands of the secretary of the committee?—A. This is what I said about the enquiry——

Mr. HODGINS.—I want the originals with the signatures of the men, because I want to call the men and question them in reference to the matter.

The CHAIRMAN.—You can have them at any time.

Mr. HODGINS.—This is the time I would like to have them.

The CHAIRMAN.—They are not here now, and the engineers are not here.

Mr. HODGINS.—I do not want them immediately, but I want them put into the hands of the secretary at once.

By Mr. Hodgins:

Q. You spoke of having asked for an enquiry?—A. Yes, in my report to the board when I was in Ottawa I wound up by saying, ' As the report is a condemnation of the engineers on the district, and myself in particular, and if this reply does not convince you at the board that matters generally are not in the deplorable condition represented by the report, I must ask you to come up as soon as possible and investigate, and if you cannot come, I would suggest Mr. Butler or Mr. Schreiber.'

Q. Then just before I get into that, I may as well put in a letter of Mr. Lumsden's in connection with it, dated 31st of July, 1907, that is in the return before parliament and is known as Exhibit No. 27, (See page 21.)

Mr. Grant's report, dated the 23rd of July, 1907, is already on file. (Exhibit No. 28. See page 16.)

A. There are some letters I wrote to Mr. Lumsden, I think, in reference to this report after I came back from Ottawa; I haven't copies of them.

Mr. HODGINS.—Will you see, Mr. Murphy, whether there are any such letters on file?—A. There was one with reference to ditching, another one was, I think, in reference to that big cutting, it is mentioned here as the tunnel cut.

By Mr. Hodgins:

Q. Now, he says in his report, after speaking of the great difficulty that the contractors had experienced in solving the problem of labour. 'The various sub-contractors tell me that these were opened up,' that is, some cuts were opened up, 'by station men who quit work after receiving their first estimate, which, in their opinion was too small'?—A. Yes.

Q. He goes on, 'The complaints were on account of the classification being too low, overbreak being held back, waste being deducted or water coming for want of drainage.' What do you say as to the classification being too low?—A. That is the statement from the sub-contractor.

Q. Yes?—A. I do not know anything about it. The engineers——

Q. Is there any basis for that?—A. I do not think so, I can find none. There were one or two instances where some cuttings had been left, but the engineers all had explanations to make about them, it was not their fault.

Q. Then as to the overbreak being held back?—A. They all said they were giving as much as they could, some of them thought they were generous.

Q. That is some of the engineers thought that?—A. Yes, some of the engineers; I think there is a statement from the engineers showing they had given all the over break they possibly could.

Q. Then, as to waste being deducted, is it proper to deduct waste from the contractor?—A. It is, most certainly, if it is deliberate.

Q. Then, 'water coming in for want of drainage'?—A. No connection with this question of waste; evidently there are one or two places where waste had been deliberate and I asked the engineers if they had deducted any wastage for it, and they said not yet, but they had warned contractors if that sort of thing went on they would deduct; anyone who goes over the line will see large quantities of it, and it should properly be deducted. The engineers were easy when they said they wouldn't deduct it if it did not go on.

Q. That is in reference to the sub-contractors' complaints; and as to water coming, if they want drainage, whose duty is it to get rid of the water—to make drains? —A. I don't think it is the district engineer's.

Q. Then, he goes on to say: 'Complaint is also made by the contractors that men leaving for the above causes get to the various centres of labour and reported that the Transcontinental Railway was no place to work, and that no money could be made there. This is a very serious matter for the contractor, who has spent in the vicinity of $75,000 for labour for which he has got practically no return; men brought in at great expense going out without doing even one day's work, and for which there seems to be no redress. The contractor has let out all his work in sub-contracts.' I suppose that is the case, is it ?—A. Yes.

Q. Are there many sub-contracts on this work?—A. I forget the number. They run, I think, from 60 miles down to 10, or 15, or 20, probably.

Q. Does that affect the work at all?—A. It puts a lot of middlemen in; they all participate in the profits.

Q. Then the reference to the fact that in a country like this the divisional

engineer can only go over his division by walking, that is correct, is it?—A. Yes, that is correct.

By Mr. Barker :

Q. With reference to the sub-contractors, had the Commissioners any control over the sub-contractors?—A. Yes. They only recognize, I think, the first sub.

Q. That is a matter for the Commissioners?—A. Yes.

Q. Not for the engineer?—A. No; we were notified that the Commissioners, if they were accepted, allowed the contractor to sub-let so much to such and such a man, but there it stopped. The sub-contractors, of course, sub-let again, but we do not pay any attention to that; it is too many middlemen in it.

By Mr. Hodgins :

Q. When you get down to the men who do the work the price is considerably lower than what the contractor's price is, is that right?—A. Yes.

Q. Now, as to classification, Mr. Grant is very emphatic: 'Classification on this work, where the vast majority of it is solid rock, is not a serious matter, and where material has been moved that could be classified—and the greater part of it was moved last winter when it was frozen, such as the opening of cuts, the stripping of rocks, etc. I found from questioning the resident engineers, and from looking over the progress estimates, that the classification given the contractors has been very low, and in many cases absurdly low, and for that reason alone there are probably 1,000 men less on the work to-day than there would have been if the work had been fairly and justly classified. Classification is left entirely to the resident engineers, and they are all too timid to give the contractor what he is entitled to in that line. The only engineer on the work who could produce any statement showing what the profit or loss was on the various cuttings on his work was Mr. F. J. McIntosh, division engineer at Wabigoon river; he looked after the classification on his division, consequently it was more reasonable than on the rest of the work.' Is that the McIntosh whose classification was altered in July?—A. Yes.

Q. And that amount added?—A. With reference to that remark about where material has been moved that could be classified, and the greater part of it was moved last winter when it was frozen, we had a meeting in my office of the engineers and Mr. McArthur and his engineers, Mr. Young and Mr. Lumsden——

By Mr. Murphy:

Q. What was that—what meeting was that?—A. With reference to the stripping of rock and the removal of frozen earth the winter before last, there was a meeting in my office at Kenora. All the engineers were there and Mr. Lumsden, Mr. Young, and it was decided that the classification of frozen earth that winter would be loose rock. We had permission to do that, and all that material was classified as loose rock.

By Mr. Hodgins :

Q. And is that what he says is very low, absurdly low ?—A. I could not say ; as far as I could gather, Mr. Grant had seen very few of the engineers.

Q. He says: 'And where material has been moved that could be classified—and the greater part of it was moved last winter when it was frozen, such as the opening of cuts, the stripping of rocks, etc.,' and then he says 'that the classification given the contractors has been very low, and in many cases absurdly low.' Does that refer to the classification of frozen stuff into loose rock?—A. It should not, because every divisional engineer was present in the office and they all received instructions.

The CHAIRMAN.—As to that question, you do not know that he refers to that?

A. I could not tell what he refers to.

By Mr. Hodgins:

Q. Those were the instructions given?—A. Any engineer having instructions like that would be only too glad to carry them out; it would help out the contractor.

Q. And this reference in the report must be to that classification as being absurdly low?—A. They had authority from the chief engineer in the case of that frozen earth to put it in as loose rock, but it was only to be material that was frozen, not the balance of the cutting; if they blasted off a foot or two of frost they would be allowed.

Q. He calls attention to it having been taken out as frozen and then he seems to complain in the next sentence as to the resident engineers doing the classification; is that customary?—A. Yes, it is customary for the resident engineers to do the classification, they really know more about the classification of their work than any one man, if they go up and down their work and watch it properly.

Q. That letter of the commissioners that I read of the 26th of August, Mr. Parent, the chairman distinctly disagreed from that, will you give me your views as to that?—A. My own view is the same as Mr. Lumsden's. Of course it is customary; if the resident engineer cannot classify he has no right to be there; a junior man may, of course, be instructed by the divisional engineer, but the man who is on the work is the one who should know more about the work than anyone else.

Q. Taking the next item of complaint, 'overbreak' you got reports from your engineer on that question, didn't you, as to whether there was large overbreak and whether it was held back?—A. Yes.

Q. What is the result of that, as far as you know?—A. I have been taking notes from the estimates, and the overbreak generally amounted to much more than what I imagine they have been giving them. I thought so going over them, they had instructions to give them everything they possibly could, but it is a difficult matter to measure overbreaks exactly with a tape unless you spend a lot of time.

Q. Is there any justification for this statement: 'This overbreak, it appears, has been held back by the engineers without any other reason than that it was just overbreak. I believe that they are paying for a certain proportion of it, but none of them pay for it all, when it was perfectly plain that it was unavoidable.' Is that justifiable?—A. I will leave that for the engineers to contradict, I can't contradict it, but they all contradicted it to me, all that I have spoken to. It was a very unjust statement to have made about engineers on the work, they are giving the contractors all they could, and Mr. Grant did not see them all.

Q. Then the next complaint is as to the waste, and he said, that he only saw two cuts where there had been deliberate waste of rock by heavy blasting, but the waste in both cases would not amount to over a few hundred yards?—A. I think that in the five miles that Mr. Lumsden went over he saw two cases. I am certain he saw one, and that is only on five miles; I have seen it at several other places along the line. If Mr. Grant has measured the waste and the overbreak with the same measure, the contractors, I think would kick.

Q. He says, 'This has been deducted with the result that such cuts are now idle,' is that correct?—A. No, it is not. Speaking generally, and I can only speak generally about this, there are certain statements put in by the engineers in regard to that statement, and they are the only ones who can answer that in detail.

Q. I know that, and I am going to call them, but I want to get your knowledge so far as you have it, as to this statement. As to the surface drainage he says, as to the resident engineers, 'They invariably told me they could get no authority to order ditches to be dug. They had written letters and sent in plans for proposed ditches but had heard no more about them. In many instances there are bogs on top of large rock cuts that must be drained before the cuts are started. The contractors are asking for drains to be laid out and cannot get them. Resident engineers waiting for orders, division engineers likewise.'—A. Well, I had rather experienced men on the grounds there, I was rather proud of that staff of resident engineers and division engineers on my line. They were all older men and men of experience, and I do not

think any one of them would have to come and ask anyone else for permission to dig any drain.'

Q. You don't think, then, that the resident engineers were waiting for orders, and that the division engineers were also waiting in the meantime?—A. I should say not.

Q. Do you know of any case where one of them asked for authority and didn't get it?—A. I heard when I went out, Mr. Harris said he had written to me and asked permission to put in a drain on some rock cut, and that he had also sent a plan. I said, 'Let us see the letter.' I was in his camp and his instrument man came up and said, 'It was not the district engineer it was Mr. Miles you asked.'

Q. Who was Mr. Miles?—A. Mr. Miles had been the division engineer, and Mr. Harris said, 'I told Mr. Grant I had sent it in to you.' That is the only case I know of, and yet there are a whole lot of them accused of it.

Q. Did you ever get requests, such as spoken of here, for orders with regard to ditches that were not attended to?—A. I should think not.

Mr. Macdonald.—What do you mean, you say you think not?—A. It is an absurd thing for any engineer to send in to me and ask me to put in a ditch.

Q. The point is whether they did or not, even if it was absurd?—A. No, I never got it, and this is the only case where I was accused of it.

By Mr. Barker:

Q. The question was asked, 'did you ever receive such a plan'?—A. Never; it certainly would have impressed itself upon my memory if I had, because I should have spoken to any engineer about it.

By Mr. Hodgins:

Q. Openings—the size never definitely been settled. 'Whose business it was to settle these questions, I couldn't find out'—when were the sizes of these openings determined?—A. Before the contract was let there were several surveys and profiles made and they are now in the possession of the Commission, probably a year or two years before Mr. Grant came up on the work, and they contain records of all the openings that were put down by the engineers, and not only the size of them but the number of cubic yards that we estimated those openings would require when they were made. Every profile that comes in would have the masonry calculated and the size of the opening put down. In one or two cases, as always occurs on a road before the work is finished, the engineers would suggest increasing or diminishing the size, after they had observed the flow of the stream, or something of that kind, and I think at the time that the report was written there were probably about three openings that were being discussed, a change in the size of them was being discussed over the whole contract. One I know over Macfarlane's river had been referred to Mr. Lumsden, and it was a question which was the cheaper size of span to put in, whether it was cheaper to put in an arch or a steel girder.

Q. Whose business would it be to settle that?—A. My business.

Q. He says here, 'Whose business it was to settle this question I could not find out,' did he ever ask you?—A. No.

Q. And in this question that he referred to as, 'Many instances,' there were three that you speak of which were then under consideration?—A. That is all I can remember now.

The Chairman.—That is all you can remember?—A. I am quite certain in saying three or four, in fact I think I may safely say that.

By Mr. Murphy:

Q. Three or four instances of what?—A. Where the engineers on the work had recommended a change in the openings. There was one on Richan's division, I do not know whether that was covered or trestle, and there was one on Macfarlane's

river, and I was taking that up with the bridge engineer in Ottawa, writing to him as to price.

By Mr. Lennox:

Q. Did you say that one case had been referred to Mr. Lumsden?—A. It had been referred to the bridge engineer, a specialist, and I think I had spoken to Mr. Lumsden about it, or had written to him.

By Mr. Hodgins:

Q. Is the bridge engineer in Mr. Lumsden's office?—A. Yes; I think it was a question whether a span or an arch was the cheaper.

Q. This sentence would give the idea that this sort of thing was existing all over the line, that would have been a most deplorable matter, that is his idea; is there any truth at all in it?—A. No. Such things could not happen with the staff I had there, they were all experienced men, men of much more experience than Mr. Grant; I would back any one of those division engineers.

Q. Had any one of those engineers who were then on the work when Grant went over it, anything to do with the laying out of the work originally?—A. Everything.

Q. And settling these openings?—A. Yes.

Q. They had?—A. They had.

Q. The same men?—A. Well, they might not have been on the same piece of work they had located, but the engineer in charge of the party on location sent in his profiles with all the culverts marked on them, we got the fullest information in regard to the culverts, the masonry and everything else, and it is in the Commissioners' office, and it was another two years before that report was made.

By Mr. Barker:

Q. Everything about those openings?—A. Everything.

Q. The information is already in?—A. Our estimates that we put in are not approximate, they are just as close as men could possibly get them.

The committee rose.

WEDNESDAY, May 20, 1908.

3 o'clock p.m.

Major HODGINS' examination continued:

By Mr. Hodgins:

Q. Grant's next objection was (reads):—

'*Location.*—Long stretches of line have been re-located since the contract was let. The contractors complain that they were delayed in the building of the camps until the location of the line was decided on.'

Is that correct?—A. I think there was only about one place on the line where there was any chance of a contractor claiming anything for delay. Most of the re-locations was done when there were very few men on the work.

Q. Mr. Grant's statement is that long stretches of line have been re-located since the contract was let, and the contractors claim that they were delayed in the building of the camps until the location of the line was decided upon?—A. The engineers who were on the ground can answer that better than I can. I was trying to get these answers from them, and I don't know whether they have put them in since I left.

Q. You would know if any complaints from the contractors reached you?—A. Yes. I had only one complaint.

Q. Is that the instance referred to: 'In one case in particular the line was changed after work had been done and camps built'?—A. Yes; Guy Campbell's.

Q. That is the only case you know of?—A. That is the only case I remember.

Q. (Continues reading): 'The contractor complains that he has never been paid for this'?—A. Just before I had the interview with Mr. Grant I had seen the contractor.

Q. Yes?—A. And I had arranged that the two engineers on the ground should go up and adjust this bill. The contractor had not the full details given. He wanted to wait until his time-keeper came back. His time-keeper was away and would not be back for a fortnight. He promised to have it in——

Q. Was that before Grant went up?—A. Before he went to Ottawa. A settlement was delayed some little time afterwards owing to the contractor not being able to supply the necessary information. Mr. Macfarlane the division engineer, I believe, visited him two or three times to get the necessary details, and it was finally adjusted after I left. McArthur told me the amount in question only amounted to about $3,000. That is all Guy Campbell claimed.

Q. (Reading): 'Sidings have not been graded on the prairie section'?—A. There was a great deal of delay about the location of sidings. We had to report to Ottawa, and they were changed.

Q. And what?—A. They were changed several times.

Q. By whom?—A. I think the assistant chief engineer was dealing with that in Ottawa.

Q. Yes?—A. And Mr. Mann and Mr. Heaman were supposed to adjust them up in my office.

Q. Yes?—A. I had sent in a scheme of sidings showing where I proposed to locate the various sidings, and that was changed.

Q. By whom?—A. By the assistant chief engineer, I think. He sent up another.

Q. Was there any delay in your office?—A. No. Mann and Heaman had the adjustment of the sidings, so that it would be satisfactory to the Grand Trunk Pacific, and we had to report to Ottwa. I turned it over to the two of them, so that instead of a fourth one going in it would be settled quicker.

Q. Then the completion of work within the limit of time. Mr. Grant says:—

'Under present arrangements I see no possibility of this contract being completed within a reasonable or limited time. There are over 16 cuttings or more on the line in which work could be pushed with greater vigor.'

By Mr. Barker:

Q. Is that 60 or 16?—A. 60, I suppose. He got that from the list I gave Mr. Lumsden.

By Mr. Hodgins:

Q. Should that be 60 or 16?—A. More likely to be 60 than 16.

Q. Do you agree that they should have been pushed with greater vigour?—A. Certainly, if there had been more men.

Q. (Reading): 'The majority of these can and will be put through in from twelve to eighteen months by using double shifts.' How did he know that?—A. I don't know. I was trying to urge the contractors to put double shifts on.

Q. Had you succeeded?—A. In one or two cases.

Q. Only?—A. Only.

Q. Out of those 60?—A. Out of those 60.

Q. Do you know how Mr. Grant was able to say when you were not able to get that done?—A. He went over it with the contractors, so I suppose they told him. They may have promised him; I don't know what they have done since.

Q. 'But the long tunnel just east of the Winnipeg river, under the present management of both the engineers and the contractor, will not be dug in twenty years. Until different management is placed on this particular job, it is merely a waste of

time to force work on any other part of the line. Here we have a tunnel one thousand eight hundred feet long on which no work has been done, apart from a little scratching at both ends. The contractor has no reason to give for not having done much work at the west end, but before he can get at the east end the lake has to be drained.' How long is that tunnel stated by Grant to be 1,800 feet long?—A. About 600.

Q. 'The contractor has no reason to give for not having done much work at the west end; but before he can get at the east end a lake has to be drained, the surface of this lake being about six feet above grade. A ditch has been dug to do this, but only four feet of water have been drained so far. To make the scheme a success the water should be lowered eight feet. I do not believe this can be done?—A. It was done when he was up there. The surface of the lake——

Q. Do you mean while he was there?—A. The surface of the lake at the time he was there was within about two inches, I think, of the drainage level that was required. I so understood from the resident engineer who had taken the level.

Q. What resident engineer?—A. Willet.

Q. Do you mean at the time that he wrote this report dated 23rd of July or at the time he was going over the work?—A. The time he was up there.

Q. Did he see the lake?—A. He saw the lake but he did not see any of the engineers. He saw the contractors and got information from the contractors. They were lowering it and it had got to the level within two-tenths I think.

Q. At what time?—A. At the time Grant was up there.

Q. Do you mean there on the spot?—A. There on the spot, on the work.

Q. He could have seen if he was on the spot, at the lake, whether it was 8 feet or 2 inches?—A. He could not tell what the level should be. He could not tell what the level was unless he had taken measurements or asked the engineer. He got his information from the contractor. I got mine afterwards from Mr. Willet.

Q. He states that he believes this cannot be done. You say this can be done and was done?—A. It was done. There is a letter I sent to Mr. Lumsden about this.

Q. Do you mean dealing with this particular point?—A. Dealing with this particular point.

Q. You sent a letter independent of your report?—A. Yes, when I got back I went up and looked at it and interviewed Willet and wrote to Lumsden about it.

Q. 'I do not believe this can be done; and as the engineers refuse to pay for the cost of this work, the contractor has quit trying to lower this lake.' Is there any truth in that?—A. The division engineer, Mr. Macfarlane——

Q. Which one?—A. A. G. Macfarlane.

Q. Yes?—A. Wanted me to grant force account on that, force account in payment of the work on the ditch and I said I preferred to classify it. There was a certain amount of that ditch which was excavated in hard material and the balance was soft muck which could not be shovelled or handled and the instructions I gave him was to take out the hard material and the action of the water would drive the muck out.

Q. Yes?—A. And it appeared that when Mr. Grant was up there there was some four men in this muck with buckets endeavouring to take out the muck.

Q. Yes?—A. It certainly was a very foolish thing to do because as fast as they would take it out it would come in again.

Q. What does he mean by saying the engineers refused to pay for the cost of this work?—A. Mr. Macfarlane, because I would not give him an order to put it in as force account work, extra account work, classified it.

Q. Classified it?—A. Yes, I have forgotten what classification he put in.

Q. And that is what he means by the statement that the engineers refused to pay for the cost of the work?—A. I presume so.

Q. That is by force account?—A. I presume so.

Q. In the next paragraph he says (reads): 'In order to get at the east end of the tunnel a large ditch 14 feet deep has to be dug from the mouth of the tunnel to the lake, as right over the proposed end of the tunnel is a bog, and from the end of the

tunnel eastwards extends a cut 1,700 feet long.' Is that statement correct?—A. It is about right.

Q. That is the length of the cut?—A. I have forgotten the length of the cutting. It is a long cutting.

Q. Then he winds up in this way (reads): 'The district engineer and the division engineer do not agree as to how the contractor should be paid for this work; neither of them take any interest in it, and owing to the mode of payment the contractor is losing $1.00 per day per man, so he is in a very unhappy state of mind. This piece of work requires your immediate attention, as there is, practically speaking, nothing being done on it; and under the most favourable circumstances it is a three-year job'?—A. I don't know where he got that information from.

Q. Did he get it from you?—A. He did not.

Q. Did he ask you or discuss it with you?—A. I don't remember.

Q. If you had agreed to force account——?—A. I don't think he did, I am not certain.

Q. If you had agreed to force account for that work apparently it would have been done?—A. Force account for the cut?

Q. For the cut?—A. Oh yes. The contractor did not want to go on until he knew what classification he was going to get. This is the particular cut that Dutton referred to. It is the principal cut on his work, the most difficult cut to take out.

Mr. MURPHY.—I don't want to object unnecessarily.

Mr. HODGINS.—What is it you want? I will be glad to answer.

Mr. MURPHY.—It is the suggested answer to the witness that if force account had been adopted apparently the work would have been done.

Mr. HODGINS.—That is the effect of his answer, is it not?

Mr. MURPHY.—I don't think counsel should put questions in that way.

The CHAIRMAN.—I am afraid, Mr. Hodgins, you lead the witness sometimes, although perhaps you do not do it intentionally. I think if you would simply ask questions it would be better and more satisfactory to everybody.

Mr. HODGINS.—Then I will ask questions.

Q. Just tell us again what the trouble was with regard to the condition of this particular work—what caused the trouble, what the contractor wanted and what the engineer wanted?—A. With regard to this large cutting?

Q. Yes?—A. The contractor wanted a higher classification on that cutting than he was getting from the engineer.

Q. Yes?—A. It was wet material.

Q. What classification did he want?—A. That I could not arrive at. I think he wanted pretty nearly all loose rock with this wet material that was hard to take out.

Q. What did you decide to do?—A. It was on this cut that the whole question of force account started.

Q. What did you decide to do?—A. I recommended that that dispute should be settled by cost, plus 10 per cent.

Q. You recommended that, and that was what the contractor wanted?—A. That is what he said would settle the whole difficulty.

Q. That is what he said would settle the whole difficulty?—A. He foresaw that he was going to lose money on it. It was a very big piece of work, a very nasty piece of work to take out, and I would have been only too glad to have helped him out a bit, and so would all of the other engineers.

Q. Now, I will read you this again: 'The district engineer and the division engineer do not agree as to how the contractor should be paid for this work——'?—A. That refers, not to the cut, but to the ditch.

Q. Explain what it does mean with regard to the ditch?—A. I explained that before, that this engineer, Mr. Macfarlane, wanted to pay for that ditch draining the lake at force account.

Q. Yes?—A. And I told him that I preferred to have it classified. That was some months before that.

Q. What is your explanation of the expression 'neither of them take any interest in it'? So far as you know, what does that refer to?—A. I don't know. Probably Mr. Macfarlane said something to him about it. I don't know how he got that. That is all the light I can throw upon it.

Q. Then we pass on:

'The engineers in District "F" lack confidence in themselves; the evasion of responsibility is the order of the day from the district engineer down to the youngest resident. There is too much letter writing about things that must and should be settled by the men on the ground, if the work is ever to be done.'

What do you say as to that?—A. I should like to see the letters. When this thing came out I sent all my letter books down to the chief engineer, and asked him to go through them and see if there were any objectionable letters that should not appear there.

Q. Is it correct: 'There is too much letter writing'?—A. In my office, no.

Q. Is it true that there is also evasion of responsibility from the district engineer down to the youngest resident?—A. As far as I know, there is no evasion of responsibility.

Q. Do you know of any evasion of responsibility on the part of the engineers in charge of that work?—A. No.

Q. Then he goes on to say:

'It is quite evident that the contractor has never had the good-will or proper co-operation of the majority of the commission's engineers on this district, without both of which it is impossible for the work to be carried on in a proper spirit and a businesslike manner.'

A. What is meant by proper co-operation? I don't understand that.

Q. Is it true that the contractor never had the good-will of the majority of the engineers?

Mr. CARVELL.—Now, Mr. Chairman——

Mr. BARKER.—That is Grant's statement.

Mr. CARVELL.—Is 'good-will' mentioned there?

Mr. BARKER.—Yes.

By Mr. Hodgins:

Q. Is that statement true?—A. I don't know. As far as I was concerned, there was no trouble between any of the contractors and myself. I believe there was some feeling between Dutton and Macfarlane, but I believe that is all over.

Q. Is that all you heard of in connection with the work?—A. That is all I know of. Of course, occasionally——

Q. Have any of these engineers, other than yourself, been changed up to the present time?—A. Oh, yes.

Q. Well, what changes have taken place? Of course, we know that you were replaced and your assistant engineer, but, other than that, have there been any changes in resident engineers that you know of?—A. Yes. When I answered your first question I had forgotten about two other instances. There was one case where a resident engineer of the name of McDougall had to be changed. I got orders to put him off the work. I did not put him off the work, but took him into my office. He was a very good man, a Scotch engineer, and had been on the Canadian Pacific Railway before he came to us. I put him onto some heavy rock work on Dutton's work, and I had to take him off that and put him in the office. Afterwards I put him in charge of the Winnipeg river bridge, sinking the foundations and the heavy masonry work there.

Q. Do you refer to that as an instance of a change or as an instance where the contractor never had the good-will of the engineer?—A. I believe there was trouble

with the contractors. Mr. Hazelwood spoke several times about it. McArthur did, but did not say very much. Webster, another of McArthur's men, spoke against it; and on the second place he was put a sub-contractor by the name of Parsons, I believe, said something about him.

Q. But at all events he was changed?—A. Oh yes.

Q. Had he been changed before this report was written?—A. Yes. I had forgotten about that instance. Of course, he was all right on the work in another place.

Q. The next statement is: 'Neither the district nor assistant district engineer have ever been over the line.' What about that?—A. Well, I have been over the line at certain points. At that time I had not been over the line continuously in any one trip. Mr. Heaman, I think, had been over the most of the line, and the district engineer who was there before Mr. Heaman had been over once or twice. A large portion of the line was untouched.

By Mr. Macdonald:

Q. Did you say that you yourself had been over the line?—A. I had only been over certain portions of it where the principal work was going on.

By Mr. Hodgins:

Q. Was it necessary that you should be walking up and down the line all the time?—A. I did not consider so.

Q. Were you instructed by your chief engineer to do so?—A. No more than to become familiar with the work.

Q. Well were you familiar with the work?—A. I think so. I should have gone out on the line if there was anything I did not know or wanted to see.

Q. Then he says: 'And if the work is to be carried on with proper despatch an assistant district engineer should be appointed whose duties will be entirely in the field——' How many assistant district engineers had you?—A. One.

Q. How many are there now?—A. I don't know.

Q. You don't know. Well we can show that later on: 'And his place of residence will be at or near the Winnipeg River crossing. This man should be given authority to settle all matters relating to borrow and waste ditching, classification, force work, size and kind of structures, &c., &c.' Now who was in charge of that work?—A. The various resident engineers and division engineers.

Q. Was that their duty ?—A. It was. If an engineer had been appointed for those duties there would not have been very much more to do for the men in camp. The division engineers' duties certainly would have been nil and it was too much to expect of one man. The classification should be left to the man who has the shortest length of line, that is the resident engineer. It is all he can do and——

Q. Apparently this is Grant's idea—that nobody was competent at all?—A. Well he wanted Mr. McIntosh to be put in as assistant district engineer and he spoke to me about him in my office.

Q. He winds up this report with this kindly reference: 'At present the engineers on this work are no more than so many clerks, simply writing letters and reading the answers, and for all the engineering they are doing, they might as well be left out'?—A. I think you will all have the pleasure of seeing some of those engineers and you can judge for yourselves whether they look like so many clerks or engineers.

Q. Did you find them satisfactory and efficient while you were in charge?—A. I did. There are, I think, the best set of men on the line in District 'F.' That is when I was there. I don't know about after I left.

Q. As I understand when you were shown this report in Ottawa you sent in, without the assistance, as you have told us, of your books and papers, a reply?—A. Yes.

Q. Explaining and controverting what appears in the report and asked for an investigation?—A. Yes.

Mr. HODGINS.—That I propose to put in, Mr. Chairman, as the next Exhibit. I do not intend to read it.

Exhibit 29 to be found at page 22.

Mr. HODGINS.—I have concluded my examination for the present, but I do not want the witness dismissed. I have some other questions to ask him.

Mr. MURPHY.—What are we to understand ?

The CHAIRMAN.—Will you proceed now with the cross-examination ?

Mr. LENNOX.—We need not pursue the examination with the same rigidity as in a court of law. Questions can be asked on anything that arises.

Mr. BARKER.—I do not want the witness dismissed because Mr. Hodgins is through with his examination.

The CHAIRMAN.—Do I understand, Mr. Hodgins, that you are through your examination ?

Mr. HODGINS.—Substantially, yes. I may have to again examine the witness if anything crops up.

Mr. MACDONALD.—Still I assume we understand, Mr. Chairman, that Mr. Hodgins has examined his client so far as he is advised it is proper to do so in support of the charges we are considering.

The CHAIRMAN.—I think so, yes. I think he is through with his examination-in-chief now on all the charges that are before us for investigation.

Mr. LENNOX.—Not necessarily on all the charges that are before the committee for investigation, but all the charges so far as Mr. Hodgins, as counsel for Major Hodgins perceives.

Mr. HODGINS.—I am through with all the examination I think I can profitably make at the present moment. There are other witnesses to be called to prove certain other facts and I may have to recall him again, or ask him other questions, that will, I think, satisfy the committee as to the existence of those charges.

Mr. MURPHY.—This is a somewhat irregular way to proceed, Mr. Chairman, I submit. Charges have been made. I want to know whether Mr. Hodgins has finished his examination and where we stand.

Mr. MACDONALD (Pictou).—We cannot shut the door to the right of committee or consul to ask Major Hodgins any question at any time. Other than that I presume that counsel is through with his examination.

Mr. HODGINS.—I may have overlooked a point or something of that kind that I may desire to ask Major Hodgins question upon, and I do not desire to say that I have closed my examination in that sense.

Mr. MURPHY.—I appreciate that, but at this stage of the proceedings we ought to know whether counsel rests his case as to the charges filed, and whether we are called upon to meet them from the evidence put in.

Mr. LENNOX.—There is only one witness as yet, and counsel does not close his case by any means, only with regard to the examination of one witness.

Mr. MURPHY.—With reference to the closing for the present of the examination of one witness, I wish to point out to the Chairman that should any further questions be asked him, of course the privilege will be extended that the witness can be further cross-examined.

The CHAIRMAN.—Of course, you will have the privilege of cross-questioning him if there are any further questions asked him.

Mr. MURPHY.—With that understanding we will proceed as far as possible with the cross-examiniation of the Major this afternoon, but I will point out to the Committee now the difficulty of doing so owing to the absence of the extended notes of the evidence which the reporters have not yet had time to extend.

Cross-examination of Major HODGINS :

By Mr. Murphy :

Q. Major Hodgins, was the letter in the Victoria *Colonist* based solely on the

assumption that the cost of this work has been increased by four million dollars?—A. The cost of the McArthur contract?

Q. The cost of the work of which you spoke in your letter to the *Colonist*?—A. I based it on what I saw in the interview with Mr. McArthur.

Q. Did you base your letter solely on what you saw in the newspapers presenting the interview with Mr. McArthur?—A. Yes.

Q. You had no other reason for that letter to the *Colonist*?—A. No other reason.

Q. Did you take any steps to ascertain whether that interview with Mr. McArthur was correct or not?—A. No.

Q. Did you make any inquiry at all about it—A. No.

Q. Had you any additional information?—A. The only additional information I had was in the *Colonist*; I connected that with the letter.

Q. What additional information do you refer to?—A. It is in the letter.

Q. What is it that you refer to? What additional information had you beyond the report of the interview with McArthur?—A. The item in the *Colonist* about the estimates being increased.

Q. What is that?—A. The item in the *Colonist*, the first paragraph in that letter.

Q. 'It is officially announced that the National Transcontinental Railway between

'It is officially announced that the National Transcontinental Railway between Winnipeg and Moncton is to cost $63,419,466. Mr. Fielding's estimate was $51,300,000. Mr. Blair put the cost at $65,000,000. The chances are that when all the accounts are in, Mr. Blair's estimate will be exceeded.' That item, you say, appeared in the *Colonist*?—A. Yes.

Q. And the alleged interview with Mr. McArthur?—A. In the Toronto *World*.

Q. These were the only grounds you had for your letter to the *Colonist*?—A. The only ground.

Q. You have also stated that you have taken no steps to ascertain the correctness or otherwise of the interview reported with Mr. McArthur?—A. No.

Q. Then, as a matter of fact, you are not, I presume, in a position to say whether the interview ever took place?—A. I am not.

Q. You relied solely on what you saw in the newspapers?—A. In the newspapers—there was some report in the Montreal *Star* or *Gazette* about it.

Q. You had not seen it in Victoria before you wrote your letter to the *Colonist*, had you?—A. Yes, that came out.

Q. When did it come out?—A. About the time that interview was in the Toronto *World*.

Q. Can you identify that in any way?—A. No, it was a quotation, I think, in the Saturday issue of the Victoria *Colonist*.

Q. Do you know what date?—A. No, I do not.

Q. In any event, that is immaterial, as to the point upon which I am examining you, because you have said that the only grounds upon which your letter to the *Colonist* was based was the interview with Mr. McArthur, and the item in the *Colonist* which you incorporated in your letter to the *Colonist* as to the large increase?—A. Yes.

Q. Then, if Mr. McArthur never gave this interview, and never made the statements attributed to him, you would have no reason for writing this letter?—A. Possibly not.

Q. You say 'possibly not'; I want an answer. Would you have had any other reason?—A. No, I took exception to his making the statement that the changes I had made, or the engineers had made, on the location which reduced the cost a million, were now increasing the cost.

Q. So that, if it be proved that this interview with Mr. McArthur did not take place, or that the statements attributed to Mr. McArthur in the interview are not correct, then there were no grounds for your letter?—A. No ground for my letter. I should not have written it.

Objection by Mr. Hodgins to the question.

By Mr. Murphy:

Q. Now, Major Hodgins, in the amplified charges that you filed here on Wednesday, the 13th inst., you have reproduced in paragraph 3, extending from the top of page 39 in these charges to the bottom of page 44, you have reproduced verbatim your complaints against Mr. McIntosh and his work, set out in your letter of September 14, which is filed here as Exhibit No. 6?—A. Practically.

Q. What is the answer to that question?—A. Yes.

Q. Now, have you any knowledge as to whether the matters originally mentioned in that letter of September 14, and reproduced here by you from pages 39 to 44, have ever been adjudicated upon or adjusted in any way?—A. I have no knowledge beyond what occurred about two months after I left.

Q. What was that?—A. I heard that nothing had been done, that the classification had not been changed.

Q. From whom did you hear that?—A. I think from Mr. Mann.

Q. From?—A. Mr. Mann.

Q. I would like you to be positive about that?—A. I spoke to Mr. Morse about it also.

Q. To whom?—A. To Mr. Morse.

Q. Where did you see him?—A. In Winnipeg.

By Mr. Hodgins:

Q. Who is Mr. Morse?—A. Vice-president.

Q. Of what?—A. Of the Grand Trunk Pacific.

By Mr. Murphy:

Q. What did you say to Mr. Morse?—A. Wouldn't it be better if you called Mr. Morse, he can tell you.

Q. No, I want to know from you.—A. I had a very long interview with him.

Q. How did you come to have the interview?—A. I wanted to ask him about work.

Q. When was this?—A. I think it was towards the end of November; I was going to the West.

Q. Towards the end of November, when you were going West?—A. I was leaving Kenora.

Q. Where did you see Mr. Morse?—A. At Winnipeg.

Q. And you of your own volition went to see him?—A. I went to see him about work.

Q. You mean about being engaged on the work?—A. Myself, yes.

Q. How did this matter referred to in your letter of September 14, 1907, and reproduced in these charges, happen to come up?—A. He spoke about my leaving, and classification generally.

Q. Yes?—A. He said he was very sorry to see I was going.

Q. But you had gone two months before that?—A. Yes.

Q. What else?—A. And that classification was a serious matter.

Q. Was it just general talk of that kind?—A. He said he had reports of classification that I had put in and that they were prepared to accept it, up to, I think it was, the August estimate.

Q. Up to the August estimate. Now, what was said about this particular classification of McIntosh's work?—A. He spoke about classification generally, and he said he had reports from his inspectors that the classification on—I think he referred to two divisions—yes, he referred to the two divisions 5 and 6, they were the only divisions that I make any criticisms of, the other divisions were apparently all right.

Q. Are you now telling us what Mr. Morse said?—A. We discussed Mr. Mann's letter.

Q. Mr. Mann's letter of what date?—A. September 6, the only one of Mr. Mann's letters that has been read.

APPENDIX No. 5

Q. There were two read, one of September 6 and one of September 9, which do you mean?—A. Both of them.

Q. How did you come to discuss them; did you have those letters?—A. No.

Q. Or copies of them?—A. No.

Q. Then how did you come to discuss them?—A. We were talking of classification, and the only classification that was objected to on the district was on these two divisions.

Q. You say you did not have those letters, and you did not have copies of them; did Mr. Morse have the letters?—A. No, Mr. Mann was in the office.

Q. He was present, was he?—A. He was not present then, but he had seen Mr. Morse.

Q. How did you come to discuss these two letters?—A. I could not say we had these letters before us, but we discussed what was in the letters.

Q. You discussed what was in the letters?—A. Yes.

Q. Did you bring the subject up?—A. I can't remember; it came up in the subject of classification.

Q. It came up on the discussion with regard to classification, that is the best you can say about it?—A. Yes.

Q. And did you recall to Mr. Morse this letter of yours of the 14th of September?—A. Which letter was that?

Q. Dealing with this classification of McIntosh's division—A. I do not remember.

Q. You do not remember ?—A. No, he wouldn't know anything about that letter.

Q. That is just what I want to know, how much was known and by whom. I ask you if this classification on McIntosh's work, referred to in your letter of September 14, and reproduced in these charges, was discussed on that occasion?—A. The subject matters, both subject matters of the letters were discussed; I won't say the letters themselves were discussed, because we did not have them there. He, I imagine, spoke from what he had heard from Mann, who wrote that letter, and I spoke from my standpoint of what I had observed. We didn't have a long discussion about it, but he discussed the matter of classification generally, and said something about the classification in Quebec.

Q. There was nothing else of any consequence discussed at that interview relating to the subject of this inquiry?—A. Yes.

Q. What was discussed?—A. I urged him to have the whole matter laid before Sir Wilfrid Laurier.

Q. What else?—A. He promised to do so.

Q. You urged him to have the whole matter laid before Sir Wilfrid Laurier, and Mr. Morse promised to do so?—A. He said as soon as he saw Mr. Hays he would see, as well Sir Wilfrid.

Q. What arrangement, if any, was made as to your position in the matter, when it was laid before Sir Wilfrid?—A. No arrangement.

Q. What was the discussion with regard to that?—A. To my position?

Q. With regard to the matter when it would be laid before Sir Wilfrid Laurier in regard to your position?—A. My position?

Q. Yes, in connection with the matter?—A. I said, 'if you are going to take it up'—he had told me he would do anything he could in the way of getting me some work in the West, and I said—'If you are going to take it up, I think, until this matter is settled, that it would not be advisable for you to give me the work now.'

Q. But you went to see him to ask him for work ?—A. I had, and I told him I did not think it would be advisable for him to give me a job just then because at that time I was a discredited engineer, and he said, 'I am very glad to see you look at it in that way.

Q. I understood that you went to see Mr. Morse in order to get work, how do you reconcile that with your statement now ?—A. I went to him to ask him what chance there was for work in British Columbia.

Q. Now, you say that in the course of your interview you told Mr. Morse you did not think it would be the proper thing for him to give you employment then as you were a discredited engineer, how do you reconcile those two statements ?—A. I say that as he was offering me work——

Q. He didn't offer you work, you went to him and sought it.—A. He had said he would do what he could for me.

Q. And then you say you told him you did not think it would be proper for him to offer you work as you were a discredited engineer ; how do you reconcile that with your statement about going to ask him for work ?—A. I thought it was the best thing to do. He was very kind in respect to the way he felt about it, I saw he was going to do what he could for me, and I relieved the situation by making that suggestion, and he said, 'I am very glad you look at it in that way.'

Q. Was that said before or after your suggestion to Mr. Morse that he should lay the whole matter before Sir Wilfrid Laurier ?—A. That was said as I was going out.

Q. What understanding had you with Mr. Morse on that occasion as to the position you were to occupy towards this matter when it was to be laid before Sir Wilfrid Laurier, or when it had been laid before him ?—A. There was no understanding as to the position.

Q. What was said in that regard ?—A. There was nothing more said.

Q. I want you to be positive about that ?—A. It was left open in that way, that as soon as the matter was cleared up I would be in a position to ask for work.

Q. Was not there a discussion as to what assistance you would give in connection with the matter that was to be laid before Sir Wilfrid Laurier ?—A. I said he could call upon me.

Q. I thought so.

Mr. HODGINS.—Let the witness answer.

By Mr. Murphy :

Q. Go ahead, what did you say, that is what I want to know ; what was it ?—A. That he could call upon me for any assistance I could give, and I think he replied he did not require any assistance.

Q. I would imagine not ?—A. He had more information than I had any idea of.

Q. Now, that correctly sets forth the relative attitudes of yourself and Mr. Morse at the end of that interview, does it not ?—A. I was feeling rather indignant about the way I had been treated, I do not say he felt very indignant, so I can't say what his attitude was.

Q. You were feeling rather indignant; that is not what I ask you?—A. You asked me about the relative attitudes of Mr. Morse and myself, I do not know about his attitude.

Q. I am asking you about Mr. Morse and yourself as to what took place at that interview ?—A. I only know about myself, he was very guarded in what he said.

Q. He was very guarded ; you were sore and he wasn't, is that it ?—A. Possibly.

Q. You wanted to get even with somebody, he hadn't any special interest in yourself to speak of ?—A. Pardon me, sir, I had chucked the whole thing, I felt rather miserable about it.

Q. Now let me direct your attention to some other things you have done. At page 41, at the top of page 41 of your charges, there appears this, 'At miles 29, station 1478 to 1483, the engineer in charge of that section turned in in estimate of July or August, 1907, 6,394 cubic yards of earth and 10,189 yards of loose rock. Judged by the specifications there was absolutely no loose rock in sight, and a thousand cubic yards of loose rock would have been an excessive charge.'

That is the first paragraph, and the second paragraph is, 'At stations 1385 and 1389 the engineer turned in in the July or August, 1907, estimate, 15,076 cubic yards of loose rock and 26,668 cubic yards of common excavation. In this case a few

hundred yards of loose rock should have been allowed, as there were a few boulders, but no more, as it was a pure sand cut.'

Where did you get the information on which those two paragraphs were based?—A. From my assistant.

Q. From your assistant, who is he?—A. Mr. Heaman.

Q. When did you get that information?—A. I had seen him out on the work, he and I had both gone together over McIntosh's work and I went west and he went east. He and Mr. McIntosh had again gone over the ten miles referred to in the transfer that we discussed last night, and then he was to go over the whole of the next division.

By Mr. Hodgins:

Q. Whose was that?—A. Mr. Richan's.

By Mr. Murphy:

Q. Yes?—A. He went over McIntosh's division, but Mr. McIntosh did not go with him, but he went over Richan's and made notes about the 40 miles, I think it was 30 or 40 miles. When I got back to my office, before he got back, I was discharged, and when he came back I asked him what notes he had taken, and he read out a lot of his notes from his note book.

Q. Yes?—A. I told him he would have to report that to the engineer who came up to take my place as he was left there he would have to report it to the chief engineer, and before I left Kenora I asked him if he had a copy of the notes; he said he had not made them out, and that he had spoken to Mr. Foss who came up to take my place, and Mr. Foss said he wanted to keep an open mind and did not want to have any information from either of us. I asked him why he said that and he said he did not know. I got these notes from him, I got no more.

Q. You got these notes from Mr. Heaman, when?—A. He read them from his note book as I was leaving Kenora.

Q. What date was that?—A. I expect it was in November.

Q. I would like you to be reasonably accurate about that, major?—A. Yes, it was in November, I had left Kenora and come west, clean out to the coast, and had been away about a month, I think, and then I came back and got all my things ready.

Q. It was in November you got the data on which these two paragraphs are based, from Mr. Heaman?—A. Yes.

By Mr. Macdonald:

Q. In whose employ was Mr. Heaman at that time?—A. I think he had left.

By Mr. Murphy:

Q. Left where do you mean?—A. Left the commission.

Q. And for whom was he working at that time?—A. I do not know whether he had gone with the Grand Trunk Pacific then or not.

Q. It is not so long ago, surely you can remember that?—A. I do not know what date he went with them; I know he went with them since he completed his time with the Transcontinental.

Q. Is it correct to say that at that time you knew he had left the commission, but you do not know whether he had yet gone to the Grand Trunk Pacific or not?—A. I think he was with the commission.

Q. You say you think he was with the commission?—A. Yes—now, let me see, I left in September—possibly he was with the commission. He was there with them until the end of October or November.

Q. He was with them until when?—A. The end of October or November.

Q. So that you think——A. He was there until a couple of months after I left.

Q. And you think that at the time you returned after this trip of a month and

got this data from him, he was still working for the commission—he was still an officer of the commission?—A. Yes, I just asked him for a copy of his notes.

Q. You say you took these notes down; have you them with you?—A. Yes (producing note book), here they are.

Q. You have a sheet in your hand, what is that?—A. It is out of my note book; these are the notes I took down.

Q. These are the notes you took down at the time you got the information from Heaman?—A. Yes.

Q. Will you please read what is on the sheet there?—

EXHIBIT No. 30.

A. '4260—Taken out in winter; at present generous. 50 per cent L. R. in first 150 feet—perhaps a few yds. in balance, but rest pure sand. Now classified as follows:

4250-4059—
200 solid.
6660 loose.
11145 com.

One thousand yards loose would be generous. Got to take engineer's word for 200 solid rock; appearances don't warrant this.

1548—1552-65—
263 E.
1757 L. R.
50 per cent loose rock would be exceeding generous.
Mile 29—1478-1483—

6394 Earth. } Return.
10189 L. R. }

By specification absolutely no loose R in sight. 1000 yds. L. R. would have been excessive.

In other words, Engrs. have given $3,000 to contractor without apparent reason.

1303-1398—
15076 loose.
26668 com. Ex.

A few hundred yds. L. R. in boulders—as it is a pure sand cut, yet 15076 L. R. is given.'

That is all I got. I said, 'Well, I would like to get a copy of the whole thing when you have made it out,' but I never had it; that is all I got.

Q. When did Heaman go over the work and get the data you have just read from?—A. He was going over it at the time I was going over it, in August.

Q. Well then, are the particulars contained in that sheet the result of his inspection, of Heaman's inspection of the work in August?—A. I presume so.

Q. I want to know definitely?—A. Yes, because it was the detail of his inspection when I was on the work that I wanted to get.

By Mr. Lennox:

Q. I understand you did not get it?—A. No, he had a note book full of it, and I said, 'That is enough,' he had read the whole thing to me before I left.

By Mr. Murphy:

Q. Do you know of your own knowledge whether Heaman was on the work or not?—A. On that? Yes.

Q. Do you know that, were you with him?—A. No, I sent him over the work.

Q. You do not know whether these particulars, contained in that sheet and given to you by Mr. Heaman, were obtained by Mr. Heaman personally, or were got by him from somebody else?—A. I presume so; I sent him there.

Q. It is only presumption of yours? You do not know, or do you know? And if so, what was the date?—A. The date he went and took these notes?

Q. Yes?—A. He must have taken these notes about the 16th of August, some time about the 16th of August, either the 15th or 16th, was the date I returned and got Mr. Lumsden's letter. He was out on the work then and he returned a few days after that.

Q. The witness said the 15th or 16th of August. Which do you mean?—A. Give me Mr. Lumsden's letter to me.

Mr. Hodgins.—The date is September 12th.

The Witness.—September 12th.

By Mr. Murphy:

Q. What are you fixing by the date of Mr. Lumsden's letter to you?—A. The date of Heaman's and my trip over the work; my last inspection.

Q. And was it on that trip Heaman got this data?—A. Yes.

Q. The particulars of which you have read to us as contained in the sheet, Exhibit 30?—A. Yes.

Q. Are you quite positive about that?—A. I did not go with them. I presume they are.

Q. I am not asking you that. I am asking you as to the time. Are you positive as to the time at which he got that information?—A. Yes, certainly.

Q. You swear positively, do you?—A. I was not with the man. I sent him out over the work to get this information.

Q. In what month?—A. In September.

Q. Then you are swearing, as I understand you, that Mr. Heaman got this information which you have read to us in the month of September?—A. Exactly. As far as I know. I did not get the information.

By Mr. Macdonald:

Q. While he was an employee of the commission?—A. Exactly.

By Mr. Murphy:

Q. You got it from him some time in November ?—A. Yes.

By Mr. Hodgins:

Q. While you were an employee of the commission?—A. After I had been West.

By Mr. Murphy:

Q. So Mr. Heaman having obtained this information in September, this work had been done some time prior to that month?—A. Yes.

Q. In what month had the work been done?—A. I presume it was in August.

Q. I beg your pardon?—A. In August.

Q. You say here in July or August?—A. July or August.

Q. Now which?—A. I could not say. I never checked up the estimates. Heaman gave me those figures, and I never checked the estimates to find out whether he was right or wrong.

Q. You see when you make charges against people, you have to be a little particular?—A. Mr. Murphy, if I knew what you wanted me to answer I certainly would tell you. I don't understand your question.

Q. What I am asking you is, in what month was the work done to which you and he referred?—A. It should have been done in July or August.

Q. Which month?—A. I could not say.

Q. In July or August, you cannot say which?—A. I could not say.

Q. You are sure it was not September?—A. September? No, the notes were taken before September.

Q. That is, Heaman's notes were taken?—A. Heaman's notes were taken before September.

Q. Then I want to fix the date?—A. If you call Mr. Heaman— —

Q. I want to know was it July or August?—A. Call Mr. Heaman here.

Q. We will have Mr. Heaman here, he will have enough to answer. Just now I want to get this information from you. You cannot say, I understand from you now, whether this work was done in the month of July or the month of August?—A. No.

Q. But you say that it was done either in the month of July or in the month of August?—A. It must have been in some previous month, because I sent him over in September.

Q. Are you quite positive it was done prior to September?—A. I should say so.

Q. You should say so ?—A. Certainly. How could it be done after September if he went over in September and get the notes.

Q. I don't know, I am not the witness ?—A. I cannot tell you. I did not take the notes. I got the notes from Mr. Heaman ; he wrote them out. He wrote these notes out. I said 'I cannot take down any more.'

Q. When you framed those charges, or directed your counsel to frame those charges, what data had you that justified you in stating——

Mr. LENNOX.—That is not a proper question.

The WITNESS.—I have given you all the data I have.

Mr. LENNOX.—I submit it is not proper to go into the relations between counsel and client.

By Mr. Murphy :

Q. I am not asking such a question as that. What reason had you—I will change the form of the question—for saying this work was done in July and August and returned in the estimates of July or August ?—A. Because it could not have been done otherwise. The notes were taken in September.

Q. Did Mr. Haman give you the date of the month of July or August ?—A. No, I don't think I took it down. Let me see the notes. (After examining document.) No, there is no date here.

Q. So the best answer you can give then is that it was either in the month of July or August that this work was done, exactly which you don't know ?—A. Yes, or previous.

Q. Or previous to that?—A. Some month previous to August.

Q. You are positive, anyway, it was before September that Mr. Heaman collected the information ?—A. I should say so, yes,

Q. Well, now I would like you to look at the July estimate and point out that return in it, if you please? First of all in whose division was this work referred to in these two paragraphs at the top of page 41 of your charges?—A. Mr. Richan's.

Q. Mr. Richan's division ?—A. Mr. Murphy, I think I looked this up the other day when I had the papers.

Q. Just a moment, we will show you the estimate ?—A. And checked over these quantities.

Q. I hand you the original estimate for July and I ask you to point out the return of 6,394 cubic yards of earth and 10,189 cubic yards of loose rock if you can find such a return there ?—A. I saw it the other day in one of them (after examining estimate). You cannot tell from that. This estimate is put in mile by mile, not cut by cut.

Q. I beg your pardon ?—A. This estimate is put in mile by mile.

Q. Is there any reason why you cannot find these quantities ?—A. Mile 29, 1,478, plus 40 to 1,531—no solid rock, 6,377 loose rock, 5,756 common excavation.

Q. Yes, but I am asking for these particular figures that you have incorporated

in your charges, 6,394 cubic yards of earth and 10,189 cubic yards of loose rock ? I do not mean to say that you will find them there ?—A. No, the figures are not there.

Q. You cannot find them there. Now take August and I shall be very glad if the members of the committee will be kind enough to allow the witness to give his own story. I think in justice to all parties that ought to be done ?—A. I think I checked over these quantities when I had thes estimates the other day.

Q. You say you checked over these quantities when you looked at the estimates the other day. And what did you find ?—A. I don't remember.

Q. You don't remember ?—A. I think I got those items.

Q. You think you got those items. In what estimate do you remember ?—A. No, I was looking through all the estimates back from January.

Q. You ought to get them in some of the estimates ?—A. I think so, yes.

Q. Can you give us no idea where you checked up those figures the other day, major?—A. Last night when I was looking over the—no, it was when I had the blue-prints.

Q. You think you checked those figures ?—A. I think I saw those figures, yes, because I went over the various items.

Q. In some of the blue-prints. Can you identify them now ?—A. You have got the originals. If you will give me those estimates I will look it up.

Q. Did you see it in one of the originals or in one of the blue-prints, major?—A. I don't remember now.

Mr. HODGINS.—I am going to call Mr. Heaman.

Mr. MURPHY.—Mr. Heaman or nobody else can prove what is in that charge.

Q. What is the number of the division this work was in ?—A. Division 5, residency 21.

Q. Major, I hand you the original estimate for October, District 'F,' Division No. 5, residency 21 (handing document to witness). Look at that and tell me whether you can find there the figures that you have incorporated in your charges at the top of page 41?—A. (Reads): '1478, 6,314 yards commons excavation'——

Q. What are you reading ?—A. I am reading the October estimate.

Q. Yes ?—A. (Reads): '6,514 yards, common excavation, 2,302 yards loose rock, 350 yards solid rock.

Q. Now I ask you do you find in that estimate 15,076 cubic yards of loose rock and 26,668 cubic yards of common excavation?—A. I am reading 1478.

Q. But I am asking you about stations 1383 and 1398?—A. Yes: 'Common excavation 26,668'——

Q. Cubic yards?—A. Yes.

Q. Of what?—A. Cubic yards of common excavation.

Q. Yes?—A. '15,076 yards of loose rock.'

Q. Of loose rock?—A. Yes.

Q. So that from that estimate it is obvious that the work to which you refer in the second paragraph at the top of page 41 of your charges was not done in July or August, but when?—A. The month of October. It may have been done previously.

By Mr. Carvell:

Q. Is that estimate which you have been referring to an estimate of the work done in September or the work done in October?—A. Of the work done up to the end of October. Everything up to the end of October.

Q. When you speak about October estimate, do you mean a paper made out at the end of the month?—A. The end of the month.

Q. Covering the work done in the month?—A. That was October, was it?

Q. Look at the September estimate, major ?—A. The whole mile is here, 1372 to 1425.

Q. What are the quantities ?—A. (Reads): 26,768 common excavation, 9,376 loose, 1,500 solid rock.

By Mr. Hodgins:

Q. For what stations?—A. I presume 1,372 plus 80, to 1,425 plus 6.

By Mr. Murphy:

Q. That would embrace what you have given in your charges between stations 1385 and 1398?—A. Yes.

Q. And although the estimate read covers the whole mile the figures given in your charges are in excess of the figures there?—A. The figures here for common excavation 26,768.

Q. You are reading now from the estimate for September and giving the returns for the whole mile?—A. Yes.

Q. And what is the distance between stations 1385 to 1388 mentioned in your charge?—A. Thirteen stations.

Q. 1,300 feet?—A. Yes.

Q. What have you to say about the date when this work was done?—A. That is September. It was returned in September.

Q. Well, it is obvious that it was not done in July or August?—A. Could I see the July estimate?

Q. You have the July estimate?—A. It is not returned here. Yes, I got these in November. Of course, I don't know——

By Mr. Carvell:

Q. The figures in your charge and those in the estimate do not correspond exactly?—A. No, I am 100 yards lower.

Q. You have given 1,500 cubic yards of solid rock. What do you find in the estimate for loose rock?—A. 9,376 yards.

Mr. MURPHY.—That is in the September estimate?

By Mr. Hodgins:

Q. That is on what station?—A. That is on the whole mile, mile 27.

By Mr. Murphy:

Q. As to the work covered by these two paragraphs at the top of page 41, major, what do you say now?—A. How much loose rock was given there in that last one?

Mr. CARVELL.—9,376 yards.

By Mr. Murphy:

Q. So your charge as framed is incorrect as to the date at which this work was done?—A. Apparently so. I can only account for that by having got it from Heaman in November.

Q. Had Heaman made a mistake?—A. Oh, I cannot say that.

Q. What right had Heaman to give you that information in November?—A. Well, he had taken the information. I asked him for the information he got while he was working with me as my assistant.

Q. If Mr. Heaman, as you state, was not then an employee of the commission, how could he get that information at that date from the office of the commission? He had not access to your office at that time?—A. Wait a minute. What is the date?

Q. You say in November?—A. Could anybody fix the date. While I might have left—I don't remember—he was there a month or two.

Q. We are asking you to fix the date?—A. I don't know what date he left. As far as I am able to remember he left a couple of months after I left.

Q. And he gave you this information in November, a couple of months after you left?—A. Before I left.

By Mr. Carvell:

Q. Before he left Kenora?—A. Yes.

APPENDIX No. 5

By Mr. Murphy:

Q. You had been away a month in the fall and you came back to Kenora?—A. Yes. You see when he came off this trip I asked him for his notes and he had not written them out.

Q. You got them from him some time in November, when both you and he had ceased to be employed by the commission?—A. I had.

Q. In any event it is now clear that this work was not done in July or August, as you alleged?—A. Apparently so.

Q. Apparently so. Very well?—A. It was September or October.

Q. In answer to your counsel, major, you stated that you were an engineer of wide experience on construction, did you not?—A. I don't remember putting it in those words. I have had some experience.

Q. Have you had considerable experience?—A. I have had considerable experience.

Q. When were you appointed district engineer for District 'F'?—A. I think in October, 1904.

Q. In October, 1904. At a salary of what?—A. $4,000.

Q. $4,000 a year. Were you engaged by the month or by the year or for any stated period?—A. By the month.

Q. You had made application, I understand, for the position that you obtained?—A. Yes.

Q. And you had furnished the commission with the record of your professional experience, had you not?—A. Yes.

Q. Now, what experience had you had on railroad construction prior to your engagement as engineer of district 'F'?—A. I had been on the Canadian Pacific Railway.

Q. At what date did you begin working on railway construction?—A. In 1882.

Q. What was your work in 1882?—A. I was on the Morris branch.

Q. Of the Canadian Pacific Railway?—A. Yes.

Q. And what work did you perform there?—A. Principally levelling.

Q. Is that what they call a rodman?—A. No, I was hired as axeman. That was the only position I could get.

Q. How long did you remain there?—A. I was there till about, I think, the fall, till it froze.

Q. What year was that?—A. That would be 1882.

Q. And what next were you engaged at?—A. I went out on the main line then as rodman.

Q. Where was that?—A. The end of track, I think, was Swift Current.

Q. What position did you hold there?—A. Rodman on the prairie.

Q. What engineer had charge of that work?—A. Mr. Foster, I think.

Q. What year did you say?—A. 1883 that would be.

Q. And how long did you remain on that piece of work?—A. We were on various pieces. I think we eventually got into the mountain.

Q. I am not particular as to the piece of work, but you were working for the Canadian Pacific Railway?—A. Yes.

Q. And who was engineer in charge?—A. Mr. Foster. I think he was the assistant engineer then. We call him resident now.

Q. I think you mentioned Mr. Ross?—A. He was the chief engineer and manager of construction.

Q. Was there a Mr. Marpole an engineer there?—A. No.

Q. Were you ever employed on any work on which Marpole was engaged?—A. No.

Q. How long did you remain with the Canadian Pacific Railway at that time?—A. Until they got through and drove the last spike.

Q. That was in what year?—A. 1886, was it not?

Q. 1885 or 1886. What was your reason for leaving?—A. No more work. We all came out.

Q. What did you next do?—A. I went down to Sherbrooke, on the short line through Maine.

Q. No, I think you were engaged up around Toronto prior to that?—A. That was on the survey for straightening the Don river.

Q. What year was that ?—A. You have got me now ; let me see——

Q. '85 or '86, wasn't it?—A. I do not know whether it was before that.

Q. Well, if you remained until the Canadian Pacific Railway was completed, and it was completed in 1885, and then you came east?—A. We came out once; they shut down construction on the Canadian Pacific Railway, and I came out. I have forgotten whether the Don work was during the time the Canadian Pacific Railway was under construction or whether it was after it was finished.

Q. You don't pretend to say that you were on two pieces of work at the same time?—A. I will have to look up the date.

Q. You have told my learned friend considerable about it, but you did not tell it all. Isn't it a fact that you came east and worked on the surveys of the Don river after you left the Canadian Pacific Railway?—A. I think that was the time.

Q. That wasn't railway construction work?—A. It was survey work.

Q. That was not construction work?—A. No, survey work.

Q. How long did that last?—A. About one summer.

Q. You were next employed on the Canadian Pacific Railway short line in Maine?—A. Yes.

Q. And who was the chief engineer there?—A. Mr. Ross was when I first went down, and afterwards Mr. Lumsden.

Q. How long were you there?—A. I think about two and a half or three years.

Q. Why did you leave there?—A. The work was finished.

Q. Where were you next employed, I think you said in Toronto?—A. At Windsor.

Q. How long were you employed there?—A. About a year, I think.

Q. About a year. Now in what capacity were you employed on each of these pieces of road by the Canadian Pacific Railway?—A. I started as a rodman with them on the prairie.

Q. You have told us about that, I am asking you about this short line and the Windsor branch ?—A. In the position they call resident engineer?

Q. On both of those ?—A. Both of those, on the Ontario extension, near Detroit, there was no division engineer.

Q. There was no division engineer ?—A. I was the resident engineer, and I used to look after what I could of his work.

Q. Did you have one or more residencies during that time ?—A. Just one.

Q. Where were you next employed ?—A. In Mexico.

Q. You were in Mexico, how long were you there ?—A. About two years, not quite two years, I think.

Q. What did your work there consist of ?—A. Construction work.

Q. Railroad ?—A. Railroad.

Q. Now you have spoken about being rodman and resident engineer ; were you instrument man before that ?—A. I was.

Q. How Long ?—A. A few months.

Q. A few months?—A. A few months.

Q. When you were in Mexico where were you employed, about the city ?—A. No, Vera Cruz, 70 kilometres out of Vera Cruz; my division went from Vera Cruz out to 70 kilometres.

Q. Were you in the city or were you on the work ?—A. I was on the work.

Q. On the work continually ?—A. Continually, until I got the fever and then I came out.

Q. That was the reason for leaving there ?—A. Yes.

Q. When you returned to Canada, where were you next employed ?—A. I went to Nelson.

Q. Prior to going to Nelson, I think you stated you were employed out in British Columbia on some work ?—A. That is in British Columbia, Nelson is in British Columbia.

Q. Yes, but on some government works ?—A. Yes.

Q. What were they ?—A. Works in connection with the town sites.

Q. That is local government works ?—A. Local government works, they owned the town site and I looked after the grading of the streets, &c.

Q. How long were you employed by the British Columbia government ?—A. About seven years, the whole of the time I was there.

By the Chairman :

Q. How many years ?—A. I did what work they wanted out there.

By Mr. Murphy:

Q. You had a variety of experience during that time, but not in construction work ?—A. Just a small piece of line at Nelson.

Q. Extending from Nelson to where ?—A. It was only a short siding.

Q. Of what length?—A. Four or five miles.

Q. Where was that from, do you remember ?—A. Which, that work ?

Q. Yes ?—A. It was building to the Hall mines smelter.

Q. When was that, what year ?—A. In '99, I think.

Q. 1896, I think, isn't that it ?—A. 1896 or 1897, I think.

Q. There wasn't any railway construction work in that experience of your in British Columbia ?—A. No, except that branch.

Q. What else did you do ?—A. I went to South Africa.

Q. Now, before that, you were engaged, were you not, in private practice ?—A. I was there about seven years.

Q. That is what you mean when you say that the only railway work you did within that period was this small branch ?—A. I gave up railway work, practically.

Q. What was the character of private practice, such as yours, in a small place like Nelson, at that time ?—A. It was very varied.

Q. Outside of this small railroad branch you built ?—A. I was city engineer of Nelson and looked after the waterworks.

Q. Yes ?—A. And I did a little bit of architecture, and a little mining surveying, I went out once or twice on a land survey, I was not a qualified land surveyor, but I did the work for other men.

Q. What else ?—A. That is about all.

Q. So that during the seven years you were engaged in private practice at Nelson, the only railroad work you did was this short branch you have spoken of?—A. Yes, that is all.

Q. Then you went to South Africa ?—A. To South Africa.

Q. What were you engaged in there?—A. After the troops got to Pretoria I was put on the director of railways staff.

Q. What did that staff consist of, and what did the work they were supposed to do consist of ?—A. My work was the building of new railways.

Q. Who was in charge of that ?—A. I was.

Q. What were your particular duties ?—A. Everything.

Q. Everything? You mean everything connected with railroad building?—A. Yes, sir, Colonel Percy Girouard turned over so many troops and so many Kaffirs to me and I had to do the work.

Q. Now, are there any engineers in Canada now who knew you in South Africa, major?—A. Yes.

Q. Name some of them?—A. There are two I saw in British Columbia the other day.

Q. Who are they?—A. Mr. Hirsch and Mr. Calcott.

Q. Are there any engineers on the Transcontinental who knew you in South Africa?—A. Yes, Mr. Bell.

Q. Where is he located?—A. Vermilion Bay; he worked for me once in South Africa.

Q. Where did you live in South Africa while working for Sir Percy Girouard?—A. At Johannesburg principally; my office was there.

Q. That was your headquarters, was most of your work done there?—A. Most of my work? No, my work was scattered over two colonies; I had all the branches. At first I lived right on the work, not in the town, but out of the town, at one of the mines; I made my headquarters there.

Q. But that was not actually on the work?—A. Yes, we were building a line through there from Johannesburg to Verinigan, and it came all through those mines; the line was about 40 miles long, the main line, and the sidings we were building from this main line to the various mines amounted to something like 25 or 30 miles, and I was living in the middle of the mines where the work was going on.

Q. So that you lived at headquarters rather than on the work?—A. It was on the work.

Q. Were your duties largely office duties?—A. No. First I had to form my own staff, pick men up where I could, and most of my staff at that time I am speaking of were really mining engineers; they had been residents at the mines and had been formed into a regiment at Capetown called the Railway Pioneers.

Q. And these men composed your staff at first?—A. Some of them.

Q. How many miles of new line were built under Sir Percy Girouard while you were there?—A. Well, there was that 45 miles to Verinigan—you will have to give me the map if you want that.

Q. Well, roughly speaking—that with which you had something to do, I mean?—A. There was the road to Ermelo Springs.

Q. What was the length of that?—A. I forget how far they built.

Q. Can't you tell us, roughly or approximately, how many miles were built?—A. I do not think it was finished when I left; they probably built 30 or 40 miles; it was a very light road. Then there was the Blomfontein to Modderspoort.

Q. What was that distance?—A. I think about 75 to 90 miles.

Q. Was that completed while you were there?—A. Yes.

Q. Did you have charge of that work?—A. I was in charge of it.

Q. And it was completed under your charge?—A. It was completed; in fact, I had to operate it until everything was finished on it.

Q. What other line was built?—A. The road from Harrismith to Bethlehem.

Q. What was the length of that?—A. Probably 90 miles, I have forgotten the distances.

Q. Well, altogether how many miles would you say were built?—A. Then there was the Springfontein to Jaggersfontein.

Q. And what was the length of that?—A. That eventually was going on to Kimberley; I forget the length of these roads.

Q. What do you say was the total mileage of these roads that were built?—A. Of the roads that were completed?

Q. Yes?—A. 300 or 400 miles.

Q. And I understand that these railroads were turned over by the military authorities to the civil authorities later on, is that correct?—A. Yes, when the war was over.

Q. And just about that time, or shortly afterwards, you ceased to have connection with the road? Did you remain there after that?—A. When Sir Percy Girouard left I left.

Q. Was there some little trouble between you and the civil authorities?—A. No, they were closing down.

Q. There was no trouble of any kind?—A. No, I got a very good letter from them; they offered me, when they were abolishing the office I held, a position on the Springfontein-Jaggersfontein road or a gratuity of six months' pay.

Q. Have you got that letter?—A. I have it somewhere.

Q. You haven't it with you?—A. No.

Q. But it is a fact that they retained some Canadian engineers in their employ? —A. Oh yes, I believe there are several.

Q. Some of those were there in your time?—A. Yes, they were on the maintenance staff.

Q. Well, now, coming back to district 'F,' what were your duties there, major; had you a printed copy of the general instructions that were issued to all engineers on the work?—A. Yes.

Q. I produce this book, indorsed 'National Transcontinental Railway, Eastern Division. General Instructions to Civil Engineers concerning Surveys and Construction.'—(Exhibit No. 31.) Did you have a copy of this book?—A. Yes.

Q. You were familiar, were you, with the definition of the duties of district engineer, set out on page 6; I will just read them?—A. I don't remember what they are.

(Extract from Exhibit No. 31.)

DISTRICT ENGINEER—DUTIES.

'10. The district engineer is in full charge of all the parties in his district; he is responsible for the faithful execution of all instructions, general or special, which may be given from time to time, as well as for the proper maintenance of discipline in the parties. He will see that the engineers in charge of parties are properly instructed, that they are competent men, and that they faithfully perform the duties entrusted to them; he will instruct the commissariat officer from time to time as to stores required and will make all requisitions for supplies so as to give ample time for purchasing and delivering same; he will certify to all accounts, pay-rolls, &c., and send them in to the chief engineer on the first of every month; he will report to the chief engineer monthly, and oftener when opportunity offers, on all matters of interest affecting the work in his district.

'It will be his duty to know the general character of the country through which the line is being run and to see that ample exploration is made in advance of the preliminary lines.

'District engineers will send fortnightly to the chief engineer, from the reports received by him from his engineers, as called for in section 12, a full report of all the work done in his district.'

You are familiar with that rule, Major?—A. Yes.

Q. Then the definition of the duties proceeds as follows:—

'On the first of every month, he will summarize to date all matters bearing upon his operations, giving progress being made, and such other matters as are of interest and value affecting the work.

'He will forward to the chief engineer, duly approved, pay-roll, expense accounts and bills.

'He will take a blue print copy of the plans and profiles received and forward to the chief engineer's office the original tracings.'

You say you are familiar with those duties as defined under section 10, is that correct, Major?—A. Yes.

Q. Then there is a further rule at page 69, rule 90, with reference to district engineers' reports :

'90. The district engineer will send in to the chief engineer once a month, or

oftener when opportunity offers, and there is matter of interest, full reports of all the work in his district.'

Q. You are familiar with that rule also, Major?—A. Yes.

Q. Then on page 43, section 45, under the heading:

'CONSTRUCTION.

'45. Ten to twelve miles will usually be allotted to each resident engineer.

'It will be the duty of the resident engineer immediately on reaching his residency to study carefully the specifications, contract and plans, so as to be prepared to decide promptly all questions that may arise within the scope of his authority, and in order to insure this end, he will confer with his district engineer on all points that seem to him to require explanation. He will inform himself fully of all the rules and matter contained in these instructions, and conform his work thereto in every particular. He will do all the instrumental work required on his residency in order that the contractor may rapidly and satisfactorily carry on the work in accordance with the plans, specifications and contract. He will make up monthly and final estimates of all work done in his residency in accordance with Form No. 4 and 5.

'He will treat contractors with courtesy and will give them all the aid necessary to expedite the work, and see that the conditions called for in the plans, specifications and contract are complied with.'

Now, you are familiar with that rule also, Major?—A. Yes, but that rule was changed; when you put division engineers on, the resident engineers reported direct to the division, they did not report to the district engineer.

Q. Do you mean to that extent the immediate control of it was transferred from the district engineer to the division engineer?—A. To the division engineer.

Q. What time was that change made that you speak of?—A. I think when the construction began, it would never do to have the junior, the resident engineer, report direct to the district engineer with an intervening senior man between them; the resident engineers are not division engineers.

Q. I see there is a rule here, 49, requiring that the resident engineer on his arrival at his residency will promptly notify his division and district engineer and the chief engineer, stating his post office, telegraph and telephone address?—A. Yes, he does that through the division engineer.

Q. Did you see that these rules were carried out?—A. I endeavoured to.

Q. There is a rule, 46, I see here: 'The resident engineer will report to the division engineer, if there is one, otherwise to the district engineer.' Does that cover what you spoke of as the change?—A. Yes.

Q. Here is a copy of the *Colonist*, of Victoria, B.C., of April 17, 1908 (handing order of reference to witness). Will you look at that, please, and see if that is the paper and if the letter bearing your signature is the letter which has been copied here in the paper brought down in the House?—A. That is the letter. I did not keep a copy of it.

Q. You did not keep a copy of it, do you mean of the letter or the paper?—A. I have a copy of the paper.

Q. Now, in paragraph 12, on page 42, of the charges that you have filed, you adhere to all the statements contained in that letter of April 16, that is correct, isn't it, major?—A. Yes.

Q. And you accept the responsibility for them?—A. Yes.

Q. Now, do you also adhere to the statements in your interview in the same paper published on the 19th of April?—A. I do not. I take exception to this exhibit.

Q. In what respect do you take exception?—A. I told the reporter that he had misrepresented a whole lot of things which he had not taken down correctly; he had not taken it down in shorthand, but wrote it on a little piece of paper about that size (illustrating), and I believe he wrote two columns; I asked him to make corrections.

Q. Were those corrections made?—A. Some.

Q. Have you those corrections?—A. I have not.

Q. When were they made?—A. The following day.

Q. In what particulars was the report of your interview incorrect?—A. There were a lot of words put down to me that I did not make use of; language that was not mine.

Q. Do I understand then that you disavow responsibility for that interview?—A. Yes

Mr. HODGINS.—He does not disavow the whole of it.

The WITNESS.—Well, the way it is written. The man who interviewed me twisted everything up, and put in some of his own words, not mine.

Mr. MURPHY.—Well, it is produced here on the records.

Mr. BARKER.—It is not produced by Major Hodgins.

Mr. PARENT.—No, but it has been produced in the House.

By Mr. Murphy:

Q. Which political party does the *Colonist* support?—A. The Conservative.

Q. Have you any particular friends who are members of the staff of that paper?—A. The reporter was the only one I knew.

Q. By the way, what have you been doing since you went out there last fall?—A. I have not been doing very much.

Mr. HODGINS objected to questions relating to witness' private business.

Mr. MURPHY.—I want to know whether he has been engaged in engineering.

The WITNESS.—No, I was out of engineering.

By Mr. Murphy:

Q. You have not been doing engineering work since. You have already told us that you based your letter solely on the report of the interview with Mr. McArthur and the item that appeared in the paper itself?—A. Yes.

Q. Now, taking up the statements contained in the article, and dealing first with that item as to the cost of the road, can you swear, of your personal knowledge, what the total expenditure will amount to?—A. I could not.

Q. You cannot? Have you any idea at all?—A. Of the total cost of the road?

Q. Yes ?—A. No, I haven't made a calculation.

Q. And you have already told us that you knew nothing about whether this interview with Mr. McArthur ever took place, and you took no steps to inquire as to its authenticity?—A. It was not correct.

Q. All you know is that it was not correct, do you know that?—A. I do not say that, no.

Q. You do not say it, but you do not know?—A. I do not.

The committee adjourned.

Thursday, May 21, 1908.

The Committee met at 11 o'clock a.m.

The cross-examination of Major Hodgins resumed.

By Mr. Murphy:

Q.—Major, I want to refer for a few minutes to the evidence that you gave yesterday. You told us that when you were in South Africa on the staff of Sir Percy Girouard, that he gave you a number of troops and that you had to go and build certain railroads? Is that correct?—A. Yes.

Q. Previous to commencing to build these roads did you make estimates of what the cost would be?—A. I had to run the survey first.

Q. Did you make an estimate of what the cost would be?—A. Not on that particular one. During the war I could not.

Q. I am not asking whether you could not, but did you?—A. I did not on that one.

Q. We understand from what you said that the roads were built as a military necessity?—A. Certain ones during the war were built in that way. Afterwards we built them in the regular way.

Q. But the majority of the roads that you mentioned were built during the war? —A. No.

Q. No?—A. Oh, no. We started one from Johannesburg to Vereeniging, and a portion of about I think 18 miles out of Harrismith we built during the war, and a portion to Bloemfontein as far as Sanna's Post.

Q. Was that work ever measured?—A. Yes.

Q. In what way?—A. Cross-sections.

Q. Such a method is employed on the Transcontinental?—A. Exactly the same.

Q. Was it done under contract?—A. No.

Q. No contract?—A. No contract.

Q. Well then in that case you were not called on to exercise your judgment as to classification?—A. No.

Q. And there never was any classification at all on those roads built under the conditions that you mention?—A. Certainly there was classification.

Q. You have just said you were not called upon to exercise your judgment as to classification?—A. On those branches certainly not.

Q. No?—A. No. On those particular ones there is certainly classification.

Q. On the ones built after the war?—A. Yes.

Q. Were the others built during the war?—A. During the war.

By Mr. Carvell:

Q. Built by contract?—A. I was given seven or eight thousand natives and I had to build those portions as best I could. Sometimes the Boers would drive us back and I would have to retire and go on with some other road.

Q. That was during the war?—A. Yes, during the war.

Q. I am speaking after peace had been declared. Was the work done by contract or simply by what is called force account?—A. By contract.

Q. Contract?—A. Certainly.

By Mr. Murphy:

Q. Do you remember who the contractor was?—A. Pauline & Company were the contractors for one portion. They were on the Bloemfontein-Modderpoort Road. Wills & Lyall, an English firm, they also had a portion of that Bloemfontein-Modderpoort road. There was another contractor named Patterson. He was on the Springs-Ermelo road. The Harrismith road I have forgotten the name of the man. He was an American. He had the grading, and other small contractors were given the masonry.

Q. By the contractor or by the government?—A. By the engineer in charge.

Q. Who was that?—A. Captain Armstrong.

Q. Were those contracts by mile, so much per mile, or for a lump sum?—A. No, they were so much per item.

Q. How do you mean?—A. So much for earth and loose rock, so much for shale, &c. I wrote the specifications myself. I have them somewhere.

Q. You wrote them yourself?—A. Yes, I had had to do everything for myself.

Q. You had to do everything?—A. Yes.

Q. Were those contracts awarded by tender?—A. By tender.

Q. Who made the award?—A. The Tender Board.

Q. Is that a government Board?—A. It was a Board made up of certain officials on the railway.

Q. Made up of certain officials on the railway?—A. Yes.

Q. Were you a member of the Board?—A. No. I was not a member of the Board.

APPENDIX No. 5

Q. Was your chief, Sir Percy Girouard, a member of the board?—A. No, there were two Royal Engineer Officers and I think one of the officials in the Stores Department.

Q. Was the Mr. Armstrong you mentioned a member of the Board?—A. Oh, no.

Q. Now, I would like to refer to a point we discussed yesterday for some time. That is with reference to cut 1,383 to 1,398. That cut was on Mr. Richan's Division 5, was it not?—A. 1,383 to 1,398? Yes. I think that is mile 27.

Q. And formed part of Mr. Richan's work?—A. Yes.

Q. You said yesterday you had received information about that contained on the sheet you filed from your assistant Mr. Heaman?—A. Mr. Heaman, yes.

Q. And that information was received on your return from British Columbia in about the first week in November?—A. The notes were received when Mr. Heaman came back from this first trip. He read me over his notes, and told me the classification was in an awful condition in that district. We discussed one or two points and looked at the profiles and afterwards when I was leaving I asked him for a copy of them. He said he had not got a copy with him at the time. He had his notebook, a small notebook, and he read them out and I took them down.

Q. Let us understand this clearly. When you first got the information from Mr. Heaman it was merely a discussion between you?—A. Yes.

Q. Then later?—A. Then later on I got the notes.

Q. In November at a time when you had for a month or more been out of the employment of the Transcontinental Commission?—A. Yes.

Q. You met Mr. Heaman again?—A. Yes, and I asked him for a copy of the notes.

Q. You asked him for the notes and he gave you a copy of the notes?—A. I took down those notes from his notebook.

Q. Now, Mr. Heaman at that time ,according to you, was either an employee of the Transcontinental Commission or an employee of the Grand Trunk Pacific?—A. Or the Grand Trunk Pacific.

Q. You are not sure which?—A. Not sure which.

Q. But in any event he was not at that time your assistant?—A. No.

Q. So that he gave you the information at that time simply out of friendship?—A. Yes.

Q. And as affording some information that his former chief asked him for?—A. Certainly.

Q. Now, have you seen Mr. Heaman since then?—A. Yes.

Q When?—A. I met him on my way down.

Q. Did you write him to meet you?—A. Yes.

Q. And where did he meet you?—A. At Kenora.

Q. And where did he meet you?—A. At Kenora.

Q. When you saw him you were on your way down to Ottawa?—A. On my way to Ottawa.

Q. Where you were summoned to attend as a witness?—A. Yes.

Q. You wrote to Mr. Heaman to meet you?—A. Yes.

Q. Mr. Heaman at that time being, and still is I understand, an employee of the Grand Trunk Pacific?—A. Yes.

Q. Mr. Heaman met you where?—A. At Kenora.

Q. And were you in his company for some time?—A. Yes.

Q. How long?—A. He came down as far as Eagle River.

Q. You and he came down together as far as Eagle River?—A. As far as Eagle River.

Q. Is that another station on the Canadian Pacific?—A. On the C.P.R. The other train crossed and he came back by it.

Q. What took place between you?—A. I asked him if he could give me any more

information. He said he would like to but that as he was working for the Grand Trunk Pacific he considered the information he received was theirs.

Q. Yes?—A. I said 'Will you give me any information about the time when you were working with me,' and he said—he asked me what it was, so I referred to these things and I said 'Is that correct.'

Q. Wait a minute. What notes were those?—A. These notes here (pointing to notes)?

Q. Those two paragraphs at the top of page 41 of your charges?—A. Yes. I said, 'Are those correct as you took them,' and he said, 'Yes.' I asked, 'Can you tell me anything more about it'? He said, 'I would rather not, but if I am summoned as a witness I suppose I will have to tell everything I know.' He said, 'I would like to tell you a good deal but don't ask me to.'

Q. Yes, what else?—A. That is about all.

Q. Was that the time when he gave you the month in which the work was performed as July or August?—A. No.

Q. The months do not appear on that sheet of yours. Where did you get the month?

Mr. HODGINS.—I am afraid I am responsible for that.

A. I expect it was in that way. My cousin asked me what month, and I said put it down for July or August.

By Mr. Murphy:

Q. In any event you did not get it from Mr. Heaman?—A. No.

Q. You made notes on the train between Kenora and Eagle River, did you not?—A. No.

Q. While Mr. Heaman was with you?—A. No, I don't think so.

Q. Are you quite sure that you did not?—A. I think so. There were other matters that I was talking to Mr. Heaman about, but they were private matters.

Q. Well, was it about these private matters you made notes?—A. I think so. When I left Kenora, I left some of my furniture and we checked that over.

Q. We need not go into that. I want to know, Major, on your oath, if you did not make notes on that C.P.R. train with Mr. Heaman about the subject matter of this inquiry?—A. I checked over those notes with him. I read that sheet that I turned in.

Q. Which sheet?—A. That little item.

Q. In your notebook?—A. In my notebook. I read it over to him.

Q. Yes? Were any corrections made in it?—A. No corrections.

Q. Or additions?—A. Or additions.

Q. Are you quite positive you made no notes on that trip?—A. I made no notes.

Q. With reference to the subject matter of this inquiry?—A. No notes.

Q. You are quite sure of that?—A. Quite positive.

Q. Did Mr. Heaman make any notes?—A. I could not say, I don't remember. I don't think he had a notebook.

Q. What understanding did you and he have regarding his attendance as a witness?—A. He said he would come down here if he were summoned.

Q. If he were summoned?—A. Yes.

Q. That is all?—A. I questioned him several times about the work and he asked me not to ask him any questions, he did not like to answer. The only question that he would really answer was, 'He said those are right. (Exhibit No. 30.)

Q. He said those notes of yours on the sheet you have filed were all right?—A. Yes.

Q. Did Mr. Heaman give you any notes of his own at any time?—A. No.

Q. Any last November?—A. No.

Q. Any on that trip on the train?—A. No.

Q. No?—A. No.

Q. Did he afford you access to his notebook or other records?—A. No.

Q. He did not exhibit any to you?—Q. He said he had a book there.

Q. Did he not show it?—A. He showed it to me.

Q. And what did you read in that book?—A. I just glanced through it.

Q. Yes, and what did you see in your glance through it?—A. It referred to Richan's district.

Q. It referred to Richan's district?—A. Yes.

Q. And what was the reference that you read?—A. There was one reference but I have forgotten the——

Q. Well?—A. It was over classified.

Q. Yes, and when did this over classification take place?—A. I don't remember the date.

Q. In any event it was after you left?—A. After I left.

Q. And this is the gentleman you told us a moment ago pretended to be so loyal to his present employers that he would not give you any information?—A. I promised him I would not use it.

Q. But he exhibited his book and gave you the opportunity of extracting from it any information you wished?—A. I did not extract any information.

Q. Well, informed yourself of the contents of that book?—A. Just to that extent.

Q. He gave you that opportunity and this is the man you want the committee to believe is loyal to his present employers?

Mr. HODGINS.—That is hardly fair. He did not say that.

Mr. LENNOX.—He did not say that and it is not right or fair.

The WITNESS.—Mr. Heaman and I——

Mr. MURPHY.—It speaks for itself.

The WITNESS.—All right it speaks for itself.

By Mr. Murphy:

Q. Where is that book now?—A. I could not say.

Q. What did you do with it?—A. Handed it back to him.

Q. What correspondence did you have with Mr. Heaman, Major, after you left?—A. I have had one or two letters from him.

Q. Have you those letters?—A. No.

Q. Where are they?—A. I destroyed them.

Q. Oh. Why did you destroy them?—A. They were private letters.

Q. But you have put in letters here that are marked private and confidential. I don't see that the fact that they were private justifies you in making away with them, as you have now mentioned?—A. Well, they were confidential letters and they referred to other people.

Q. Yes, that was to be expected. Did you keep copies of them?—A. No, I did not.

Q. Has Mr. Heaman copies of them?—A. I could not say.

Q. Did you discuss those letters with him on the train?—A. Yes.

Q. Were any notes made on the train regarding the contents of those letters?—A. No.

Q. Is it not a fact that you had considerable correspondence backwards and forwards with Mr. Heaman?—A. Not considerable; I don't suppose there were more than four letters.

Q. Not more than four letters? A moment ago you said one or two. Now, think again and see if there were not more than four?—A. No.

Q. You mean four letters from you to Heaman and four from him to you?—A. About that, yes.

Q. Now, I shall ask you to produce that correspondence you had with Mr. Heaman?—A. I have not got any correspondence with Mr. Heaman; I destroyed them.

Q. Did you keep copies of the letters you sent?—A. Not a copy.

MAJOR HODGINS.

Q. Well, what was this correspondence about?—A. About a good many things, principally private correspondence. A good deal of the correspondence was about my things that I left in my house.

Q. I don't want any information about that; that is private in the real sense of the term. Was any of the correspondence about the matters that are being inquired into by this committee?—A. Some of it was.

Q. Some of it was. Now, what was that correspondence?—A. I cannot remember all that was in it.

Q. Well, tell us what you remember, as you have destroyed the correspondence? —A. It was principallly that——

Q. Begin at the beginning? How did it open up? How did the correspondence begin?—. It began with possibly references to private matters. There were several questions I had asked Mr. Heaman that he was unable to give me answers to.

Q. Yes?—A. He gave me no definite information about anything. I got no notes from him as to any particular portion of the line. I asked him once whether the classification on McTaggart and the two Macfarlanes' division was unaltered. I said I did not imagine there would be any change in that, that the only portion of my district that would require re-classification was on divisions 5 and 6, and he replied to the effect that my——

Q. Divisions 5 and 6. Whose divisions are they?—A. McIntosh and Richan.

Q. And he replied?—A. And he replied to the effect that that was all right, that my opinion was all right.

Q. That your opinion was all right. Yes, what else?—A. Then he said he was rather tired of going up and down the line and making notes on classification.

Q. Yes?—A. The chances were that he would be either transferred to British Columbia or District 'C.' I think District 'C' or 'D.'

Q. Yes, and what else did this correspondence contain?—A. I don't know whether I should give the opinion of an engineer on other engineers.

Q. Oh yes, if you had not destroyed this correspondence you know it would speak for itself. Now we are entitled to know what it contained. What else?—A. Is that the ruling of the Chairman?

The CHAIRMAN.—Oh yes, you have to answer that, I think.

The WITNESS.—It was private correspondence.

Mr. CARVELL.—Is the witness to be asked to go into private matters?

The WITNESS.—I would prefer Mr. Heaman to come down.

Mr. CARVELL.—Mr. Chairman, is it your ruling that the witness should proceed?

The CHAIRMAN.—I think as between two engineers talking over the matter—

The WITNESS.—Confidentially.

The CHAIRMAN.—With respect to this investigation we ought to be entitled——

Mr. MURPHY.—One of them being still on the work.

Mr. CARVELL.—He is not in the employ of the commission but in the employ of the Grand Trunk Pacific Railway.

Mr. MURPHY.—Yes.

Mr. CARVELL.—I am taking the same ground this morning that I have taken from the beginning. I don't think we ought to drag into this any improper evidence. I I think this would be improper. I don't see what right we have to inquire into the private transactions of Major Hodgins with Mr. Heaman or any other gentleman with whom he had correspondence.

The CHAIRMAN.—Of course, not private transactions, but if anything has transpired in correspondence, or in conversations, relating to the charges which we are investigating I think we ought to get that information. Of course, not privaate conversations or private affairs discussed in correspondence.

Mr. MURPHY.—I have already said I don't want that.

Mr. CARVELL.—The witness has said these were private references to other engineers.

The CHAIRMAN.—I think he ought to answer that

Mr. Hodgins.—What opinions about other engineers?

Mr. Macdonald.—For what purpose did you desire this evidence, Mr. Murphy?

Mr. Murphy.—I don't know that we ought to disclose at this stage why we desire this evidence.

Mr. Barker.—This man is not on oath and he is expressing private opinions upon the character of other officers.

Mr. Carvell.—That is the point exactly.

The Chairman.—There was correspondence between them and we have not got that correspondence. Mr. Murphy is trying to find out what was in that correspondence relating to some of these charges.

Mr. Lennox.—If Mr. Murphy wants to have the information, and if it is evidence touching the subject of this investigation, I think we ought to have it

Mr. Barker.—We would be glad to hear it, if it is evidence?

Mr. Murphy.—I don't want any private affairs.

The Chairman.—Of course, I am in the hands of the committee. My ruling may not be exactly what it should be, but as far as I am concerned, if there is anything in that correspondence that relates to these charges I think it should be told.

Mr. Hodgins.—As I understand it, Mr. Murphy, you want Mr. Heaman's opinion about other engineers?

Mr. Murphy.—I don't know what the information is.

Mr. Hodgins.—Is that relevant; has that anything to do with this inquiry? Supposing he did say so and so was a bad engineer?

Mr. Carvell.—And is it of any value to the committee in coming to a conclusion? I cannot see that it is.

Mr. Murphy.—I cannot say until the witness has answered the question.

Mr. Barker.—If Mr. Murphy insists upon it we should not object.

By Mr. Murphy :

Mr. Murphy.—If the answer is irrelevant it can be stricken out.

Q.—What period did this correspondence between you and Mr. Heaman that you have been referring to cover?—A. Let me see. To about April, about the middle of April.

Q.—It began about the middle of April?—A. No, I think the last letter I got from him was the middle of April.

Q. When did you go to Victoria?—A. I was there in December.

Q. You were there from December?—A. Yes.

Q. Are we to uunderstand that from December until April you had this correspondence with Mr. Heaman?—A. About three or four letters.

Q. You had three or four letters between December and April?—A. And April.

Q. From Mr. Heaman?—A From Mr Heaman.

Q. Does the answer you gave a moment ago mean that your last letter was received from him in April?—A. I think so. I would not be certain, I don't remember the date.

Q. You were uncertain yesterday as to the date at which Mr. Heaman left the employ of the commission?—A. Yes.

Q. Can you tell us whether you had any correspondence with him before he left their employ?—A. No.

Mr. Carvell.—Yesterday he said it was either the end of October or the end of November, he was not sure which month it was.

Mr. Barker.—The commission must have the actual date.

By Mr. Murphy:

Q. Now this correspondence you say was destroyed?—A. Yes.

Q. When did you destroy it?—A. I destroyed it when I was coming down here.

Q. You destroyed it after you had received the summons to come to Ottawa?—A. Yes.

Q. To attend before this committee?—A. Yes.

Q. Why did you do that?—A. Mr. Heaman asked me to.

Q. Mr. Heaman asked you to. Very well. I don't think we need pursue that much further. Now, in one of these letters Mr. Heaman mentioned that he was tired of going up and down the line and expected to be transferred to a certain section in British Columbia?—A. Yes, or 'C.'

Q. His professional experience had been that of an office man, had it not, largely?—A. Oh, no. Heaman is not here to defend himself.

Q. He will be. I am asking you?—A. And he is a good engineer in the office and out of the office.

Q. How much experience did he have before you got him?—A. I cannot say as to that how much he had, I don't remember.

Q. Would you be surprised to hear that he had not a year's experience?—A. Very.

Q. Would you, too, be surprised to hear that he had not six months' experience?—A. Oh yes, because he was working for the Grand Trunk Pacific Company when I took him.

Q. At what was he working?—A. Survey.

Q. For how long?—A. I don't remember.

Q. You don't know?—A. The Division District Engineer of the Grand Trunk Pacific Railway at Winnipeg spoke very highly of him.

Q. Who is he?—A. Mr. Kelleher. He is now chief engineer.

Q. Did you ever receive a recommendation from Mr. Mann about Mr. Heaman?—A. No, I do not think they knew one another until they came here.

Q. But they have become very intimate since?—A. Naturally so, they were associated together on the work.

Q. Mr. Mann was referred to in this correspondence between you and Heaman, wasn't he?—A. I think so. He said something about him being out on the line.

Q. Now at the time this correspondence was being carried on you were not employed by the Transcontinental?—A. No.

Q. Then what right had you to ask for this information?—A. Why hadn't I a right.

Q. I am not the witness. I am asking you what right had you?—A. I had a right.

Q. What did you want it for?—A. I wanted to find out what was going on.

Q. Although you had ceased to have any connection with the Transcontinental?—A. Certainly.

Q. Well, we will find out from Heaman what right he had to give it to you. This book that you speak about seeing on the train, containing Heaman's notes, from which you say you got some information, what book was it?—A. It was one of his notebooks.

Q. One of his notebooks, containing notes made when?—A. I do not remember, I did not look at the date, I did not go through the whole thing. I said, 'Well, if I can't use any information, if you can't give me any information it is no use my looking at these.' He said, 'I would rather not give any information at all to you, I would like to give you all the information I have, but I would prefer to give it when I am called to Ottawa.'

Q. Were the notes in that book made by Mr. Heaman while employed by the Transcontinental?—A. I could not say.

Mr. HODGINS.—He will be here to tell you.

Mr. MURPHY.—Please do not interrupt the witness, let the witness answer. Mr. Heaman will have his own sins to answer for.

By Mr. Murphy:

Q. You must know when the notes in that book were made by Mr. Heaman, and whether they were made while he was in the employ of the Transcontinental or not?—A. I do not think they were, but I will not be certain; I did not look at the month.

Q. I am not asking you that; don't you know that those notes in that book to which you refer were made by Mr. Heaman while he was employed by the Transcontinental Railway Commission?—A. I do not.

Q. You do not?—A. No.

Q. Will you swear they were not?—A. No, I cannot swear about the date because I do not know the month nor the year.

Q. I am not asking you the date, I am asking you whether those notes were made by Mr. Heaman while employed by the Transcontinental Commission?—A. The notes?

Q. In the book that you looked at in the train?—A. No, I do not think they were.

By the Chairman:

Q. You say you do not know?—A. No, I do not think they were.

By Mr. Murphy:

Q. You do not think they were, but you will not swear they were not?—A. No.

Q. Had the book a familiar appearance to you?—A. No, it was an ordinary notebook.

Q. Was it like the book you had seen in use by Mr. Heaman when he was your assistant?—A. No.

Q. Was it a different kind of book?—A. Yes.

Q. Just describe, please, what kind of a book that was?—A. It was an ordinary common notebook.

Q. An ordinary common notebook?—A. Yes.

Q. What shape was it, square or rectangular?—A. Rectangular.

Q. That is, it was a long narrow book, was it?—A. No, it was about, I should say, that wide, and about that long (illustrating).

Q. Do you remember what kind of a cover it had?—A. No, I did not notice.

Q. How long did the trip take from Kenora to Eagle River?—A. We had dinner on the train, and he got off just afterwards.

Well, dinners last for different lengths of time?—A. The timetable will tell you that we got into Kenora about 12, I think, or a little after. I have forgotten the time, the train was on time, and he got off at Eagle River; it was about, I should think, probably two hours.

Q. Would the trip have lasted longer than three hours?—A. Two or three hours.

Q. Two or three hours; you think about three hours?—A. I do not remember now, you can find out in the timetable easily.

Q. But I haven't a timetable, and I have never made the trip.

Mr. BARKER.—Oh, give it up, the man says he doesn't know.

Mr. MURPHY.—I am entitled to this information; I think that observation is uncalled for.

Mr. LENNOX.—The witness cannot give the information, he says he can't.

Mr. MURPHY.—We have not yet reached the stage at which the witness says he cannot give the information, I submit I have a right to an answer.

Mr. LENNOX.—He has given you the means of finding out.

By Mr. Murphy:

Q. Mr. Heaman's request that you would destroy the correspondence which you say you did destroy was in writing, wasn't it?—A. No.

Q. How was it made?—A. He spoke to me on the train about it.

Q. I understood you to say you destroyed that correspondence at Victoria?

Mr. LENNOX.—No, he said he did it while coming down here.

Mr. MURPHY.—I did not so understand the Major's answer.

By Mr. Murphy:

Q. Where was it destroyed, actually?—A. In Toronto.

Q. Did you show it to any person in Toronto before destroying it?—A. I do not think so.

Q. You must remember, it is not so long ago.—A. No, I do not think I did.

Q. Did you show the correspondence to Mr. Heaman on the train?—A. No, I hadn't it with me.

Q. Where was it at the time?—A. It was in some papers I had expressed down to Toronto.

Q. And the request was made by Mr. Heaman on the train, and when you reached Toronto and got those papers, you sorted out this correspondence and destroyed it, is that a fact?—A. Yes.

Q. You do not remember whether you showed it to any person in Toronto before destroying it?—A. I do not think so.

Q. Will you swear you did not?—A. No.

Q. You may have shown it to some person in Toronto?—A. I may.

Q. Did you discuss with any person in Toronto the destruction of this correspondence before you destroyed it?—A. That I do not remember.

Q. Well just think for a moment?—A. No, I do not remember.

Q. Who was present when you opened up those papers which you expressed to Toronto?—A. I do not think anybody was.

Q. Where did you open them?—A. In my cousin's office.

Q. Do you mean your counsel here present?—A. Yes, I took them into one of his private rooms and opened them up, and waited for him to come in.

Q. Yes, was that where they were destroyed?—A. No, I tore them up at my father's house.

Q. Now, is it not a fact that in one of his last letters to you Mr. Heaman told you that objections to a certain cut on this work had been made or would be made to Mr. Woods, the Grand Trunk Pacific engineer?—A. A certain cut?

Q. Cuts, to certain cuts on this work?—A. I do not remember that, I do not think so.

Q. Had been or would be made—that objections had been made or would be made to certain cuts in this work?—A. No, I do not think so.

Q. Objections regarding classification?—A. I do not think so, Mr. Heaman was very firm in saying that he did not want to give me any informaaton.

Q. That was when you met him?—A. Yes.

Q. But I am talking about a letter?—A. No, I do not think so.

Q. I would like you to charge your memory with it?—A. I do not think he made any reference to anything of that kind.

Q. Did he not tell you in one of his letters, and in one of his last letters, that certain objections had been made or would be made to the classification of certain cuts and that these objections would be sent to Mr. Woods, or had been sent to Mr. Woods?—A. I do not think he did.

Q. I would like you to be a little more positive about that if you can?—A. Well, sir, I can't say anything else, I do not think he did, I do not remember.

Q. Did he say anything in one of his last letters about these objections to classification having been made, or that they were going to be made to any other officials, or officers of the Grand Trunk Pacific?—A. Any objection?

Q. To the classification of certain cuts?—A. I am pretty certain that Mr. Heaman did not specify any cuttings at any time in his letters.

Q. I am not asking you that, Major, I am asking you a general question as to the contents as I am advised, of certain of those letters, more particularly the last letters, and I want to know if in some of those letters Mr. Heaman did not state that certain objections to classification had, prior to the writing of the letter, been made, or would subsequent to the writing of the letter, be made, and that these objections would be made to Mr. Woods or some other officer of the Grand Trunk Pacific?—A. I do not think so.

Q. Is that the best answer you can make?—A. That is the best answer I can make.

Q. How is it you remember the rest of his letters so well?—A. I do not remember.

Q. You have told us, in a general way, fairly well what they contained?—A. I have told you as far as I can remember.

Q. Just reflect for a moment, Major, and see if you cannot recall a statement such as the one I am asking you about. You read these letters in Toronto again, before destroying them?—A. I went over one or two of them.

Q. And that is only a short time ago?—A. Yes.

Q. So that you ought to be fairly familiar with the contents of those letters?—A. No, I cannot remember that he did.

Q. You cannot remember that he did?—A. I do not remember him referring to anything of that nature, not to any particular point or cutting.

Q. I am not asking you about any particular cutting, I am asking you generally?—A. Yes, he referred to classification on two divisions, 5 and 6.

Q. Yes, what did he say with regard to that?—A. One was about the same, I think he said that 6 was about the same, and that 5 had not improved, or something of that kind.

Q. That 6 was about the same and 5 had not improved?—A. Yes, 5 had not improved.

Q. That, I take it, had reference to the condition of things with which you were familiar at the time you left?—A. He was referring to the classification at the time I left.

Q. What did he say about the representations made to the Grand Trunk Pacific Company or its officers about that classification?—A. I think he referred to it, and said they were still reporting.

Q. He said he was still reporting?—A. He said he was still reporting.

Q. What else did he say?—A. What the company were going to do, he did not know.

Q. He said he was still reporting his objections to the company about this classification, and what the company was going to do, he did not know. What else did he say on that subject?—A. I think that is all I can remember.

Q. Now, just think again, major, you are doing well when you reflect, what else did he say?—A. I do not think that I should be called upon to repeat the contents of these letters.

Q. Oh, yes, this is part of them, I do not want anything that I am not entitled to.—A. Why should I be giving evidence referring to another man's letters? I have asked you to get Heaman down here.

Q. Now, major, we want this information, it was in these letters, they would speak for themselves if you had not destroyed them?—A. Well, you will get it from Mr. Heaman when he comes down here.

Q. No, no, I want it from you now. Mr. Heaman hasn't had those letters as recently as you had them, his memory might not be as good as yours, I think your memory is good.

Mr. CARVELL.—I think the witness is right, I think Mr. Murphy has no right to go into private letters between this witness and Mr. Heaman.

Mr. MURPHY.—Surely the correspondence about classifications, which the major has said in his letters is the root of the trouble between himself and the commissioners, is an important matter?

Mr. CARVELL.—Let us see how this will work out. Mr. Heaman says they are classifying sand as solid rock, that goes on record here as a fact and is published all over the country, and, assuming that Mr. Heaman is telling what is absolutely untrue, you see the position that we are being placed in. I am not saying that as an absolute fact, but it may happen that such is the case. It is the worst kind of evidence that can be given in any court or investigation.

The CHAIRMAN.—I think I shall give the same ruling in this matter that we want to get at the bottom of the charges, and I am of the opinion that everything in that correspondence which the major can remember—we are not asking any private matters at all, we have no right to do that—but anything pertaining to these charges I think we are entitled to know. If he had these letters in his possession I think we would be entitled to ask him to produce them; we have already ordered the production of private and confidential letters.

Mr. CARVELL.—I will take issue with you there again, I do not think we have the right to compel the production of them; we may have them produced, and put in evidence that which may be entirely false. Why should we ask the witness to bring these letters here?

The CHAIRMAN.—We are asking nothing with regard to private maters; but only in regard to the charges we are investigating now.

Mr. MACDONALD.—This whole question whether this evidence is permissible or not depends upon the reason why Mr. Murphy asks that the evidence be given. The letters themselves are not in evidence, and letters which were not public documents, or on the file of the Commission as public documents are not evidence before us. I want to say that myself positively now, because I do not want any misunderstanding about my position on the subject hereafter. I am at a loss to know why Mr. Murphy is going along this line, and I think it would be well for him to indicate why he wants this evidence. If it is for the purpose of discrediting Mr. Heaman, I can understand the possibility of the evidence being offered on that ground, but as a matter of the ordinary principle of evidence being relevant to the issue, these letters are not evidence and would not be received in any court.

Mr. BARKER.—Those letters would not be in evidence if they were here, and it is much worse if we are to take a man's recollection of them. You can put Mr. Heaman in the box and he will prove what you want, no doubt.

Mr. MURPHY.—With regard to private communications giving the character of the rest of the men, I do not want, I have stopped the major several times.

Mr. BARKER.—The rest of it he says he does not recollect.

Mr. LENNOX.—We have wasted an hour already on this subject.

Mr. CARVELL.—We would like to get you on record on this subject.

Mr. LENNOX.—I think we have gone so far it is a pity to stop him now.

The CHAIRMAN.—This position of the Chairman seems to be the right one, according to Mr. Barker. I would like to have the opinion of the committee on this, as it is a very important ruling. I still maintain as my opinion that these letters—of course we have no right whatever to ask for anything that is private in those letters, but I submit that anything that can throw light on these charges which we are investigating we are entitled to know. If the major does not remember, he cannot help it; the letters are destroyed and he cannot produce them. That is the course I take unless the committee objects.

Mr. BARKER.—I do not object. I would be very glad to have a ruling.

Mr. MACDONALD.—My position is that these letters, if they were here, would not be evidence, and such being the case, you cannot give secondary evidence about them, unless Mr. Murphy can give us some reason, or says that he wants this examination for the purpose of discrediting Mr. Heaman, who, I suppose, is Mr. Hodgins' witness.

Mr. HODGINS.—I was asking for a subpœna for him.

Mr. MACDONALD.—The clerk tells me he has been subpœnaed and I can see that there is a possibility on that ground that this may be evidence.

Mr. MURPHY.—That may be the effect as regards Mr. Heaman as Mr. Macdonald has stated, but, to be quite frank with the committee, that is not the basis on which I am putting in this evidence. Major Hodgins says, in his letter to the 'Colonist,' 'The root of all the trouble between the Commissioners and myself was over classification,' and that position was reiterated here by the major's counsel, and I submit that everything that refers to the subject of classification, more particularly a conver-

sation or a letter between a former employee who occupied a close and confidential relation to the major, and who is now in the employ of the Grand Trunk Pacific and is still on that work, that anything that took place between these two gentlemen with regard to classification is evidence with regard to, and is relevant to the subject matter of this inquiry, and it is on that ground I offer it.

The CHAIRMAN.—As far as I am concerned I think your contention is right, and unless my ruling or opinion is challenged by the committee, I shall allow the questions to go on. Of course I invite the opinion of the committee on that.

By Mr. Murphy:

Q. So that there is further information within your knowledge, I take it, from your last answer, as to what Mr. Heaman said with regard to classification?—A. He reported to Mr. Mann and Mr. Mann reported to the Grand Trunk Pacific, I believe; Mr. Heaman does not report direct.

Q. What else was said on the subject of classification?—A. You mean in Mr. Heaman's letter?

Q. Yes, in Mr. Heaman's letters?—A. You mean his own opinion?

Q. I am asking you what he said?—A. Well, I do not think anything else in the letter would be evidence. Why do you not call Mr. Heaman and ask him? You ask me to repeat something; it is not evidence for me to repeat what a man said.

Q. I am asking you what he wrote further on the subject of classification, which you say is the root of the trouble between you and the Commission? What further do you recall major?—A. That is all.

Q. That is all you recall. Well then, it is a fact that you wrote the letter to the 'Colonist' after you had received all those letters from Mr. Heaman?—A. I think I got one from him just after.

Q. You think you received one from him just after you had written to the 'Colonist'?—A. Yes.

Q. But the other three or four had been received from him prior to sending your letter to the 'Colonist'?—A. Yes.

Q. Now with regard to the cut on Richan's work, did you ever see the cut itself?—A. I haven't seen it since it has been worked; I saw it before any work was done on it.

Q. You saw it?—A. At least I presume I did, I walked over the piece of ground.

Q. You presume you did?—A. Yes.

Q. As a matter of fact you never saw the cut itself?—A. Not the cut when work was done on it.

Q. You saw the ground before the cut was made?—A. I had been in that neighborhood, but I could not swear to going through that particular cut.

Q. You are just familiar with the formation of the country?—A. I was over that piece. I don't think I was on that since the location or when there was an exploration party going out.

Q. Was that winter time?—A. Yes, it was winter time.

Q. It was winter time. Then the only knowledge you had of the country in which this particular cut was afterwards excavated was gained from a visit there during winter time?—A. Of that particular piece of the line.

Q. That is what I am speaking of?—A. But further west, I was there in the autumn.

Q. Never mind we will get there later. Just about this particular cut the only knowledge you had then was such knowledge as you could have obtained from a winter visit?—A. Yes.

Q. What knowledge did you get of that cut at that time?—A. Nothing at all.

Q. Then what reason have you for saying that is a pure sand cut?—A. I quoted the notes of my assistant.

Q. Ah, you quoted the notes of your assistant. Do we again get back to Mr. Heaman? So that if Mr. Heaman is not correct in the notes he gave you about that cut then your criticism of it fails?—A. Yes.

Mr. HODGINS.—Not necessarily.

The WITNESS.—The only information Mr. Heaman had given me was to say those notes were correct.

By Mr. Murphy:

Q. At the time he gave you this, was he working under you?—A. At the time he took them he was working under me.

Q. But not at the time he gave them to you?—A. No. Well, it is just a question and you can decide. When he came off the work and came back to Kenora with these notes and read them over to me——

Q. Yes?—A. Well, then, it is just a question. If I had written them down I suppose I would have been entitled to them. As it was I did not write them down until afterwards.

Q. In November?—A. Yes.

Q. When you were not entitled to them?—A. That is a question for the committee.

Mr. BARKER.—A question of ethics.

By Mr. Murphy:

Q. Now, who were the two engineers on that cut, at least on the division that that cut is located in?—A. Which cut?

Q. Richan and Pearson, were they not?—A. I think so.

Q. Were they included in the list of engineers that you mentioned yesterday as being amongst the best men you have had working for you?—A. I don't know about Pearson, he is a new man, Richan has worked for a long time.

Q. Did your commendation include Richan?—A. Yes.

Q. It included him?—A. Yes.

Q. How often had Heaman seen this cut?—A. Oh, I fancy he had seen it a good many times.

Q. I don't want your fancies, do you know?—A. Heaman was in charge of that division before Richan went on it.

Q. Do you know how often he had seen this cut?—A. I do not.

Q. So without knowing that you preferred to take Heaman's statetment about it in preference to that of Richan?—A. Every time.

Q. Every time?—A. Yes.

Q. Why so?—A. Because I think a good deal of Heaman. He is a better engineer in my opinion than Mr. Richan. I don't wish to discredit Mr. Richan, but I selected Mr. Heaman from all the rest of them and gave him the promotion, with the approval of the chief engineer, to assistant district engineer.

Q. Then when you give a general certificate of character to a staff of engineers you place Mr. Heaman on a higher pedestal, do you?—A. Well, I am just comparing Mr. Heaman with Mr. Richan.

Q. Do you prefer him to all the rest?—A. Well, in some things.

Q. In what for instance?—A. Heaman is a good all round man.

Q. Yes?—A. He is a very clever engineer and in my opinion he is a very fair minded engineer.

Q. Yes?—A. He has got good judgment.

Q. Yes. Any other quality that commends him to you?—A. I think that is the general idea I had of him.

Q. Did you know that any of the other engineers ever exhibited their notes, or books or private memoranda to persons not connected with the work?—A. You will have to ask them.

Q. I am asking you. Do you know?—A. I don't.

Q. You have told us Heaman did?—A. Well, to me.

Q. Yes, to you when you were no longer connected with the commission and coming down here under the summons of this committee?—A. Yes.

Q. Did you know any of the other engineers to do anything like that?—A. No, I did not.

Q. When you met the commission in Winnipeg in June last, do you remember Mr. Parent being there with the rest of the commissioners?—A. Yes, in June. Parent and yourself with reference to the work in your district?—A. I cannot remember just now. I talked with him, I think.

Q. Do you recall having a conversation with him?—A. I think I do.

Q. Do you remember what took place?—A. Can you give me a pointer to start with? I cannot remember.

Q. Well, I am not a witness but I have no objection to doing that. Did not Mr. Parent tell you that the work was progressing slowly in your district, and that this was not satisfactory?—A. I discussed with everyone there the condition of affairs.

Q. Yes?—A. And probably spoke to Mr. Parent about it.

Q. You have no difficulty in recalling that Mr. Parent was there with you?—A. Oh, no, he was there. He was there all right.

Q. Do you recall a conversation with him along the line I have just mentioned? —A. On the condition of the work and the slow progress?

Q. Yes?—A. Yes.

Q. You remember that you and Mr. Parent were speaking of the work?—A. Mr. Parent, I think, was on a sofa. I went up to see him. I cannot remember the——

Q. You went up to see him?—A. I remember we had a conversation.

Q. And do you not recollect that conversation was about the slow progress of the work in your district and that was not satisfactory?—A. Possibly that was about the only thing, that was the principal thing to be discussed by us.

By Mr. Hodgins:

Q. That was the principal thing to be what?—A. To be discussed.

By Mr. Murphy:

Q. That was the principal thing to be discussed. Do you remember what reply you made?

Mr. Hodgins.—To what?

Q. When the chairman inquired about the slow progress of the work?—A. Possibly I made reply that the progress was not the fault of the engineers, but the fault of the contractors.

Q. You say possibly you made that reply?—A. That would have been the reply I would have made.

Q. That is what you say now, but what reply did you make?—A. I don't remember. I don't remember the subject of the conversation.

Q. Well, try to recall it, major, as I am instructed it lasted for some time and was of such a character that it ought to be very easily recalled?—A. I had not any long conversation Mr. Parent. If I remember the time that discussions took place there it was a short time in the morning and then we went over to Mr. McArthur's office and sat there for a short time, and then we drove out and went out on the line. I don't remember the conversation.

Q. I am not particular as to the exact place of conversation with the chairman?— A. Well, I am trying to fix this conversation.

Q. Well, I will ask you do you remember telling him there was a friction up there in connection with the work?—A. With the men on the work.

Q. That friction existed in connection with the work?—A. Between the men and McArthur?

Q. No, friction of any kind in the relations between individuals connected with the work?—A. I possibly made some remark about Mr. Young.

Q. Yes, what was that?—A. That he was interfering. I would not be certain whether I spoke to Mr. Parent about that. I am pretty certain I spoke to Mr. Reid.

Q. Yes, you told us that already in your examination-in-chief, but I am asking you particularly as to your conversation with Mr. Parent?—A. I don't remember that very distinctly.

Q. At which, I understand, he asked you as to the cause or reason for the slow progress of the work and complained about it being unsatisfactory. My instructions are that you said this was due to friction that existed?—A. Oh no.

Q. You don't recall it?—A. I would not have said it was due to friction that existed, certainly not.

Q. I am not asking you what you would have said, but what you did say?—A. Well, I did not say that.

Mr. LENNOX.—Is that a proper question to ask?

The WITNESS.—I did not say that, certainly.

By Mr. Murphy:

Q. Well, do you recall the chairman asking you to keep him posted in the future so as to facilitate the proper administration of the affairs of the Commission?—A. Oh no, certainly not.

Q. And the progress of the work in your district?—A. The chairman never asked me to do that. The only man I can report to officially is the chief engineer.

Q. I am asking you about this conversation there?—A. I don't remember now. I certainly did not make that remark to him.

Mr. BARKER.—It was a very improper remark for him to make, if he did.

Mr. MURPHY.—I am asking the witness.

Mr. BARKER.—You are asking if the chairman made a very improper remark.

Mr. MURPHY.—That is Mr. Barker's characterization of it.

Mr. BARKER.—That is the proper characterization of it.

The WITNESS.—You see if I said to Mr. Parent anything about Mr. Young interfering it was referred to in this way—that Mr. Young was doing it out of his good nature.

By Mr. Murphy:

Q. Yes, you have told us that in your examination?—A. I don't remember speaking to Mr. Parent about it.

Q. You don't remember?—A. No. Possibly I might have done so.

Q. You have spoken about difficulties that arose on the work between that time and the time of your leaving the district?—A. Yes.

Q. Difficulties in connection with the work itself and in connection with some individuals there and so on. You have told us about those. Now did you inform the commissioners at the time those difficulties arose?—A. I informed the chief engineer.

Q. You informed the chief engineer. Always?—A. I think so.

Q. In every case?—A. I think so. I cannot recall a case where I did not.

Q. Is it not a fact that you informed persons not connected with the Transcontinental Railway Commission of what you were doing or intended to do about difficulties——

Mr. HODGINS.—What difficulties?

Mr. MURPHY.—Difficulties that arose about the work.

Mr. HODGINS.—In what way?

Mr. MURPHY.—Classification for instance.

The WITNESS.—I don't remember.

Q. Just reflect for a moment?—A. That I informed persons not connected with the work?

Q. Not connected with the Transcontinental Railway Commission of what you

were doing or intended to do in connection with these matters?—A. In connection with what matters?

Q. The difficulties that you afterwards complained about and now complain about?—A. Such as?

Q. Classification?—A. Classification?

Q. Yes?—A. The only one I discussed that question with that I can remember would be Mr. Mann.

Q. Mr. Mann? And Mr. Mann is what?—A. The Grand Trunk Inspector.

Q. And was he at the time you discussed it?—A. Yes.

By Mr. Hodgins:

Q. Had he joint supervision?—A. Joint supervision.

By Mr. Murphy:

Q. But did you not discuss these matters with persons not connected in any way with the Transcontinental Railway Commission or inform such persons of them?

Mr. HODGINS.—Give the names.

The WITNESS.—I cannot recall the circumstances.

By Mr. Murphy:

Q. Do you not remember making a statement to the effect that you were allowing, or intended to allow, a certain work in your district to be performed not according to the specifications and not according to Mr. McArthur's contract?—A. No.

Mr. HODGINS.—I am not interposing any objection to the question as far as it goes but it does not go far enough. If intended to contradict the witness afterwards the person to whom the statement is made and sufficient identification of it, must be given. It is not fair for Mr. Murphy to ask if the witness made a statement to persons unknown to such and such an effect. My learned friend must take the responsibility.

Mr. MURPHY.—I am testing the witness' memory and we will come to the point mentioned by my learned friend a little later on.

The CHAIRMAN.—What was your question?

Mr. MURPHY.—I asked the major if he did not make a statement to the effect that he was allowing, or intended to allow, certain work in his district to be performed not according to the specifications and not according to McArthur's contract?

The WITNESS.—No, there is nothing I would do on that work that I would not do after having discussed it with Mr. Mann.

By Mr. Murphy:

Q. I am not disputing that, that is not the point?—A. We discussed the advisability of a change of classification in one or two instances.

Q. I can quite understand there would be some reason for your speaking to Mr. Mann as he was the representative of the Grand Trunk Pacific?—A. Yes.

Q. But I am speaking of persons not connected with the Grand Trunk Pacific and not connected with the Transcontinental Railway Commission and I was asking did you make any such statement as that?—A. Not that I know of. I cannot recall any statement or having discussed it with any person.

Q. Now you stated in the *Colonist* that you changed the location before McArthur had started work in earnest and that you thereby reduced the cost of McArthur's contract over one million dollars.

Mr. HODGINS.—He changed what?

Mr. MURPHY.—The location.

Q. Was not that one of your statements?—A. Yes.

Q. Well, now, can you swear from your personal knowledge that this change of location on your part was true?—A. I changed it as the engineer in charge of the

district. The change probably was made by the various engineers on the division. The surveys were run by them.

Q. That is, the actual manual labour was not done by yourself but by the engineers?—A. By the engineers.

Q. That is not what I am asking?—A. What is it?

Q. You stated in the *Colonist* that you changed the location before McArthur had started work in earnest, and that you thereby reduced the cost of McArthur's contract over a million dollars?—A. Portions of the location.

Q. Here is the clipping from the *Colonist* (reads):—

'Mr. McArthur should have been more definite and explained what 'changes' would increase the estimated cost; change in location and change in the standard of classification both affect the cost of construction. Change of location was made at some points by revision surveys. These improved the line and also reduced the cost of the McArthur contract over one million dollars. I was able to make these revisions before Mr. McArthur started the work in earnest.'—A. Yes.

Q. That is your statement in the *Colonist*?—A. That was, yes.

Q. Now, I want to know if you can swear from your personal knowledge if this change of location was true?—A. That the changes in location reduced the thirteen million?

Q. Reduced the cost of the work by one million dollars?—A. Yes. As far as I was able to gather from calculations made in the office it was.

Q. By whom?—A. By the engineers.

Q. Yes, but I am asking you from your personal knowledge. What is your personal knowledge about the matter?—A. My personal knowledge is that when I left there the valuation of McArthur's contract was reduced over a million.

Q. By what?—A. By these changes.

Q. Yes. Now, what were these changes?—A. Changes and alterations in the line.

Q. I beg your pardon?—A. Changes and alterations in the alignement, changes in grade, in certain places.

Q. In the alignement?—A. And in the grade.

Q. Those changes in the alignement and grade were not made by you but by the engineers?—A. Under my instructions. They probably would suggest a change or I would suggest it.

Q. Will you then specify each change that was made?—A. I could not.

Q. You could not?—A. Oh, dear, no. They are all on record in the chief engineer's office here.

Q. You cannot specify each change that was made?—A. No.

Q. You say they are all on record in the chief engineer's office?—A. Yes.

Q. Can you tell us what saving was effected by each of these changes?—A. No.

Q. You cannot?—A. No.

Q. Can you tell us what saving was effected by any one change?—A. No. The only record I have about it is——

By Mr. Macdonld:

Q. Can you tell us any one change that was made?—A. No, that would be going into figures. I could not remember the figures of the cost of the change previously.

Q. Not so much the cost of the change, but——

Mr. CARVELL.—The location?

Q. Yes, tell us any one definite change that you did make?—A. No, because they were all worked out in the office, and they would be reduced to dollars.

Q. I am not speaking of the cost. You said this saving had been effected as a result of certain changes, so that we can get some conception of what you have done?

Mr. CARVELL.—And the general location of the changes?—A. No, I could not without reference to—without being in the office.

By Mr. Hodgins:

Q. In what office and what papers do you want?—A. The Kenora office. I would have to go over the plans and profiles.

Mr. Hodgins.—The commission ought to produce them. I would like the necessary papers to be produced, and opportunity afforded to Major Hodgins to go over them.

By the Chairman:

Q. Do you mean to say that you cannot give us the nature of one single thing that, as you say, reduced the cost by one million dollars on that section?—A. Oh no, one change did not, but the total changes. Some of the changes would be a little more expensive.

Q. The committee wants to know if you can give one or two of the changes.

Mr. Hodgins.—Illustrate.

A. There was one change—the biggest change that was made was a change of line from Canyon lake. There was a long piece of line changed there, and I had a lot of engineers on it. It is a very difficult piece of country.

By Mr. Hodgins:

Q. Is that a location change?—A. I don't remember now what the figures were on that change, but the total changes—when everything was changed some of those changes when you figured them out in dollars and cents were little more than the original, but the bulk of them, the total balance when these changes were all finished in the office and put together had reduced the cost to $11,600,000; $11,667,987.83 was what these changes were figured out at when I was in the office. That is the total was reduced to that amount according to the estimate made in the office.

By Mr. Murphy :

Q. You say according to the estimate made in the office?—A. Yes.

Q. Who made the estimates?—A. Well, it would be compiled by Mr. Heaman and Mr. Ruddick, I think, and Mr. Mann. They all went over it.

Q. By Mr. Heaman and Mr. Ruddick and Mr. Mann? Is that right?—A. I should think so.

Q. Is that correct?—A. I think so. Mr. Ruddick compiled this work for me from time to time.

Q. The book to which you referred you will put in as an exhibit ?—A. Yes, I would like to have it back again.

Q. This compilation, was it chiefly by Mr. Ruddick?—A. Totalizing the whole thing up.

Q. Who is Mr. Ruddick?—A. He was a resident engineer at headquarters.

Q. Resident engineer at headquarters ?—A. This is his handwriting I think.

Q. He is one of the gentlemen in your office ?—A. In my office.

Q. And this compilation was made by him ?—A. By him.

Q. Are you or are you not in a position personally to vouch for the correctness of the items going to make up that compilation, or have you depended altogether on what you received from your staff?—A. Well, in a general way I knew there was a considerable saving, but to get the actual amount in dollars and cents I have got to depend upon this statement worked out in the office.

Q. I see. So that was your basis, was it, for the statement to the newspaper that a saving of a million dollars had been effected?—A. The basis that I had estimated with the total, yes. These figures were made in the office. It is on that basis I got them.

By Mr. Barker:

Q. Were they reported to headquarters?—A. Yes. McArthur came to me before

I left, and said he understood that the changes I had made had reduced the cost of the line considerably. I said it had, and he said 'how much?' I said, 'It is over a million dollars.' He said, 'Well, I put in 10 per cent on $13,000,000. That means $1,300,000, and if the cost of the line is reduced to twelve millions, I am entitled to $100,000 back.'

Q. Of his deposit?—A. Of his deposit. He said it would be very acceptable for him to get, and he asked me if his engineer could go over to my office and go over with Mr. Ruddick these details. I said, 'Certainly,' and he sent him over, and I understood that he was going to apply to get a reduction of his deposit.

By Mr. Murphy:

Q. Mr. Ruddick, you say, was the gentleman who made this compilation from the data supplied him by the men in your office?—A. Supplied in my office.

Q. How had it got to your office from the men on the work?—A. In some cases they would work out their own valuation of the line, and in some cases they would not, but they were all checked over in the office.

Q. Had Ruddick ever been over this work himself?—A. No.

Q. A few minutes ago there was an effort made to ascertain from you what some of these changes consisted of?—A. Yes.

Q. And you have mentioned that there were a great many of them, but you did not specify any one in particular?—A. No.

Q. Did not one of the changes consist in this—that the line that had been the first line was abandoned and a new line run?—A. Yes.

Q. Did you ever go over any of these abandoned lines?—A. No. Let me see.

Q. Did you ever go over any of the new lines?—A. Oh yes, I have seen some of the new lines.

Q. You have seen some of them. Did you see enough of them to satisfy yourself that the charges that had been made in the way you have told us were all important and in the public interest?—A. Well, I satisfied myself with the plans.

Q. In your office?—A. Exactly. You don't suppose I could go out on the work.

Q. I am not supposing anything; I am not the witness. I want to know what you did in connection with these changes for which you have claimed credit in the *Colonist* and upon which you have based part of your charges of fraud against the commission and the engineers? That is what I want to know and what I am entitled to get. You say you did not go over any of the abandoned lines?—A. No.

Q. So you don't know anything about them?—A. I do know something about them.

Q .What do you know?—A. I know the lines that have been adopted are an improvement.

Q. You know that because your engineers have told you?—A. I know they are an improvement from the plans. If they are not an improvement the plans are wrong, and I don't believe the plans are wrong.

Q. Very well we will see about that a little later. Now, after the contract was let to McArthur did you go over the line?—A. I have not been over the line, not from one end to the other continuously; I have only been over a portion.

Q. Do I understand that none of these changes were suggested by you?—A. A good many of them were.

Q. A good many of them were?—A. Yes.

Q. From your inspection, made in the office, of the plans?—A. Exactly; you see each one of these engineers would send me in the information regarding the portions of the line that they were running, and of that work I knew they had the best knowledge; I would put them together, one man would adjoin another man, but he would not know anything about that man's portion, so that these all had to be put together, levels and everything of that sort reduced to the same data. They would sometimes suggest a change, and would come into the office to discuss whether they had better run this line or another line, and in other cases after studying the plans I would

suggest some changes and say, 'Try another line here, and they would report on it, adopting it or abandoning it.

Q. All this on your part was done in your office?—A. Yes.

By Mr. Macdonald:

Q. Do I understand you to say that they abandoned the line—say one line is contemplated, you did not go with them over this and personally inspect it at all?—A. You see, if I had gone over these lines I would really have to go over them and find out as much as the men who ran them, and if I did that I might as well have sent the engineer into my office to do my work, and do his work myself. When you employ a staff to do the work you have to use them for that purpose.

Q. Would it not be necessary, after the experimental survey had been made by some of your assistants, for you to go over the ground yourself in order to enable you to determine whether it would be prudent to abandon a certain line or not?—A. In some cases it might, but it would take a long time for a man to get the run of the country in his head; any locating engineer would tell you that. If I had gone out on the work I would probably take a good deal of the time of the engineer in charge of that location trying to find out and to learn as much about the country as he would know.

Q. Where was this book from which you are quoting, made up?—A. In my office.

Q. Well, when?—A. There is an entry here, the last in September.

Q. Have you a copy of the contents of this book?—A. No.

Mr. MURPHY.—Then I submit I am entitled to inspect this book.

By Mr. Murphy:

Q. Was that a book that you got in the office of the commission?—A. Yes.

Q. Paid for by the commission?—A. Possibly, yes.

Q. That is our book, then—Mr. Chairman, I want that book.—A. This is a copy of the original book. On all work that I am on, I generally keep a statement of this kind, and this was being prepared for me for my own personal use, and I expected I would have it when the whole work was finished. I used to send it up to Mr. Ruddick every month to fill in the monthly reports, and that is all the value it is to me, just a as a record of this work. I see no objection to the commissioners having it if they wish to claim it, and I will buy a new book and have it transferred, but you have a copy of this in your own office.

Q. We haven't seen it?—A. I think you will find it there.

Q. Coming to the changes in the classification, you state in the *Colonist* that 'The root of all the trouble between the commissioners and myself was over classification, they wanted me to change my ideas, based on a good many years' experience on construction, to classification that is allowed to the contractors in Quebec.' To allow the Quebec classification in your district. Now, major, on your oath are you prepared to swear that is true?—A. In my opinion it is.

Q. In your opinion?—A. Yes, that was the root of the trouble.

Q. But what about that part of your statement that the commissioners wanted you to change your ideas based on a good many years' experience on construction and to allow the Quebec classification in your district?—A. That is also my opinion.

Q. Now, who asked you to change your ideas?—A. Mr. Young suggested that I should do as Doucet did. It was a question he did not understand, but he understood there was a much higher classification given in Quebec. I cannot repeat his words, but I may repeat my impression of the conversation, that there was more classification, or classifiable material in Quebec, and that the prices the contractors were getting there were lower, and there was no trouble; up in district 'F' there was less material to classify, the price was higher and there was trouble; he said, 'Why don't you do as

Doucet does'? I said, 'If Doucet were up here he would do just the same as I am doing, I cannot do anything more. I am giving them all I can, or, at least, the engineers are giving the contractors all they can, they have my instructions to do so, they are experienced men, they have had work before of this kind and they know how to classify.'

Q. Is that what you mean when you say you were asked to change your ideas, based on many years' experience, and allow the Quebec classification?—A. Yes.

Q. That is the conversation to which you refer?—A. One of them.

Q. Where did that conversation that place?—A. In Winnipeg.

Q. When?—A. When the commissioners were up in Winnipeg in the early part of June, because the Quebec trip followed just afterwards.

Q. Who was present when this conversation took place?—A. No one.

Q. Except?—A. Mr. Young and myself.

By Mr. Macdonald:

Q. When did you say that conversation was?

Mr. MURPHY.—When the commissioners were in Winnipeg in the early part of June and the Quebec trip followed.

By Mr. Murphy:

Q. Did you have any other conversation, such as you allege, with any other commissioner about the same subject?—A. About going to Quebec.

Q. No?—A. With reference to Quebec?

Q. No?—A. Or the Quebec classification?

Q. No, with reference to your statement in the 'Colonist' that the commissioners wanted you to change your ideas based on a good many years' experience on construction, and to allow the Quebec classification; I want to know what commissioners you had conversations with who asked you to change your ideas. You have told us that conversation about Mr. Young?—A. I did not put in that they asked me to change the classification, but that they wanted me.

Q. 'They wanted me to change my ideas,' who wanted you?—A. Mr. Young.

Q. Who else?—A. The others.

Q. Who are the others?—A. Mr. Reid, he suggested that I should copy Doucet. Mr. Reid and Mr. Young were the only two commissioners who made any reference to copying Mr. Doucet or working on the Quebec data, and Mr. Grant suggested it.

Q. Just a moment, you say, 'The root of all the trouble between the commissioners and myself was over classification, they wanted me to change my ideas, based on a good many years' experience on construction,' who are they?—A. I include all of them, although I cannot remember any conversation with Mr. Parent or Mr. McIsaac on the subject.

Q. You cannot remember any conversation between you and Mr. Parent and Mr. McIsaac in reference to the mater?—A. No.

By Mr. Macdonald:

Q. Did any conversation ever occur of that nature; have you any reason for saying that? Did the matter come up in your conversation with the other members? —A. No, you see I had a conversation with Mr. Young in which he talked about classification, he admitted he didn't know very much about classification but he reasoned that if the classification in Quebec—if there was more classifiable material in Quebec and there was a lower price for it than McArthur was getting, that I ought to go down there and see it and get an object lesson.

By Mr. Murphy:

Q. Who said this?—A. Mr. Young.

APPENDIX No. 5

By Mr. Macdonald:

Q. Did Mr. McIsaac or Mr. Parent discuss this with you?—A. No, I do not remember.

Q. When you say that you do not remember—did they?—A. No, I will say positively that Mr. Parent never had any such conversation neither directly nor indirectly.

Q. Neither directly nor indirectly—or Mr. McIsaac?—A. No.

By Mr. Murphy:

Q. Then, according to the explanation you have given, your statement in the paper relates to Mr. Young and Mr. Reid?—A. And also to the appointment of Mr. Grant from Quebec, Mr. Grant had had charge of the classification there, and his appointment was insisted upon by the chairman.

Q. How do you know that?—A. I understood that from the chief engineer.

Q. How do you know it?—A. I tell you how I know it, I understood from the chief engineer that he had objected.

Q. Did you have any personal knowledge of that?—A. Oh no.

Q. Let us stick to this statement in the *Colonist* Mr. Grant is not one of the commissioners?—A. No.

Q. Consequently this cannot refer to Mr. Grant?—A. All right.

Q. 'They wanted me to change my ideas'?—A. Yes.

Q. I understand you to say that the word 'they' refers to Mr. Young and Mr. Reid, is that correct?—A. I mean the commissioners as a whole—I do not know——

Q. You have just told Mr. Macdonald that you never had any conversation with Mr. Parent or Mr. McIsaac?—A. Well put your question in another way, ask the committee here to answer that question.

Q. No, sir, I will ask you; you're the man who made the statement, the committee cannot know, except such as you may have told privately. I want to know the history of the thing? A. What is it you want me to answer?

Q. I want to know which of the commissioners your charge in the *Colonist* relates to, 'They want me to change my ideas'?—A. Mr. Young and Mr. Reid were the only two who spoke to me about it.

Q. You have told us about the conversation with Mr. Young?—A. Yes.

Q. Where did that take place?—A. In Winnipeg.

Q. Where, in Winnipeg?—A. At the Royal Alexandra Hotel.

Q. Do you remember the date?—A. Well, I'll have to get the date, it was given last night, I think, the date the commissioners were up there.

Q. Were they there only one day?—A. I don't remember, no; let me see, they came up one night and the next day we went over the line—no, they were there more than one day,I do not remember how many days they were there.

Q. Did this conversation take place the first day they were there?—A. I can't remember.

Q. You can't remember—did it take place the second day they were there?—A. I can't remember.

Q. Do you remember what time it did take place?—A. I do not remember that.

Q. Do you remember what part of the hotel it took place in?—A. Yes it was in the rotunda, we were sitting on a sofa, or Mr. Young may have been sitting on a chair I do not remember which.

Q. At all events you and he were sitting in the rotunda?—A. Yes.

Q. Who were present, do you say?—A. Just Mr. Young and myself.

Q. And Mr. Young, you say, admitted that he knew nothing about classification?—A. Yes.

Q. He admitted he knew nothing about engineering?—A. Yes.

Q. You and he were discussing some of the troubles on the work in your district?—A. Yes.

Q. Having admitted that he knew nothing about these matters you say he proceeded to tell you about Quebec?—A. Yes.

Q. Now, what were his words?—A. Well, as I have stated, he said he could not understand why there was kicking up on district 'F,' and none down below, and I said, well, it is not in the engineers, if Mr. Doucet was up here he would do the same as I am doing, it is in the contractors, as far as I can understand the contractors in Quebec are much more experienced rock men, they are much bigger men, and that I would do what I could to help McArthur.

By Mr. Macdonald:

Q. You understood that the contractors in Quebec were much more experienced men, bigger men?—A. Much more experienced men, yes.

By Mr. Murphy:

Q. What was the exact conversation, major?—A. I cannot remember the exact words, I can only recollect the impression I received.

Q. And that is what, as well as you remember?—A. He specially made reference to the Quebec work, that was the way Mr. Young put it, and I said it was better to leave that alone. He said, you had better go down and see, or come down and see, I do not know which way he put it. But anyway to see for myself. I said, 'If Mr. Doucet was up here he would do the same as I am doing, and if I were in Quebec I would do the same as Doucet did, there is only one way to classify, and we are both working on the same specifications.'

Q. That if you were in Quebec you would do the same as Doucet was doing?—A. Yes, that is what I said.

Q. So that if you were down in Quebec you would do the same classification that he was doing?—A. No, that is not what I mean, I was speaking then before I went to Quebec.

Q. That was before you went to Quebec?—A. Yes.

Q. Was there any kick about classification in your district?—A. Yes, I could not fasten it to any particular case.

Q. Did Mr. McArthur ask you anything about classification?—A. Mr. McArthur had said very little to me personally, he would speak generally that the men on the work, the subs, were kicking.

Q. Had there been any request for re-classification, re-classifying any of the work?—A. Yes, Mr. Hazelwood, had said once or twice that certain engineers were not giving enough, and I had referred to the engineers.

Q. Had that ben said to you?—A. Yes.

Q. And you had referred it to the engineers?—A. I had spoken to the engineers, yes.

Q. And this, you say, was the subject of the conversation with Mr. Young?—A. With Mr. Young.

Q. And this conversation took place, you say, in the early part of June?—A. In the early part of June in Winnipeg.

Q. Was there anything more serious to discuss at that time than the subject of classification?—A. The lack of men.

Q. These were the principal topics of discussion between you and Mr. Young?—A. Yes.

Q. Now, major, you remember putting in a report in answer to Mr. Grant's report?—A. Yes.

Q. Your report is dated July 31st?—A. Yes.

Q. That would be nearly two months', six weks' interval anyway, betwen that date and the meeting with the commissioners in Winnipeg?—Yes.

By Mr. Macdonald:

Q. When Mr. Young spoke to you in Winnipeg, was Mr. Parent and the other two commissioners there at that time?—A. They were all there.

Q. I mean they were all at Winnipeg, at the time?—A. Yes.

Q. Were they present at the interview?—A. They may have been some place else in the hotel.

Q. Did you regard what Mr. Young had said to you as being an improper proposal?—A. I said——

Q. Did you regard what Mr. Young said to you as an improper proposal?—A. No.

Q. You did not regard anything he said to you as being of sufficient importance to require you to go to the chairman and ask if he agreed with the opinion of Mr. Young?—A. No, I looked upon it in this way——

Q. Did you or did you not look upon it as of sufficient importance to go to the chairman and ask him whether he agreed with Mr. Youngs view, or whether this was the view of the commission?—A. No, I considered Mr. Young was talking about something he didn't know anything about, and I was very anxious——

By Mr. Murphy:

Q. He admitted that?—A. He admitted that he did not know anything about it, and said, "Well, go down and see for yourself and get an object lesson."

Q. Now that you have told us that this question of classification and the lack of men were the two topics of discussion at that time?—A. I never considered classification was a very important question at that time on the work. I do not know whether I told Mr. Young at that time that the classified material that could be classified up to that date was a very small amount, I think I figured it out, but whether I told Mr. Young or not, I figured out that if I took all the common excavation that had been returned up to that date or up to about that date in the rocky portion, leaving the prairie portion out, and dumping that into loose rock, that is, giving them 60 cents a yard for it, instead of 30 cents, it would not have amounted to $400 per mile, and $400 per mile would not have helped anybody out.

Q. How many miles would you have applied that to?—A. About 170 or 175 miles.

Q. 170 or 175 miles, what percentage of the work was done at that time? Do you remember?—A. Oh no.

Q. Would there be 50 per cent?—A. No, put it in a different way.

Q. Would it be 25 per cent?—A. I will put it in a different way, possibly it might have amounted to $70,000 on the work that had been done to date.

Q. And what percentage of the work had been done?—A. I don't remember.

Q. Had 50 per cent of it been done?—A. No.

Q. Had 40 per cent of it been done?—A. No.

Q. Had 30 per cent of it been done?—A. About that.

Q. About 30 per cent, was that at the same rate?—A. Of course, if you apply that $70,000 to one man it might be an appreciable sum.

Q. You are spreading it over that whole line?—A. Yes, you see, McArthur had come to me and told me that his subs owed him money, $1,200,000 an advance he had made to them, he was going behind and we were discussing some possible way of helping him out, and I said that $70,000, whether you give it to one man, or distribute it all over the line, I might have mentioned it in that way to show that it was a very small sum——

By the Chairman:

Q. Did you mention it to Mr. Young, do say?—A. I do not know whether I told Mr. Young, but I said that the question of classification on my division up to

date did not amount to very much, as will be seen on a reference to the estimates. Now in June the classification leaving out the prairie section and taking the rocky section, the June estimate returned 999,283, say 1,000,000 yards of solid rock, and only 186,000 odd yards of loose rock and 286,000 of common excavation. If I took all the common excavation, which would be very extravagant to take, all the common excavation to date and turn it into loose rock, that would be adding another 30 cents, he had already received 30 cents for it, that would mean $70,850. Well, that is a very inconsiderable amount to discuss in reference to classification.

Q. But that is what you did discuss with Mr. Young at that time?—A. I said, "If Mr. McArthur is losing money he cannot be losing it on classification material, it must be on solid rock."

Q. So that no matter what might then have happened the issue between Mr. McArthur and the commissioners could not have been a question of classification in your opinion?—A. He claimed, that his (McArthur's) men claimed they were not getting enough, but I could not get any specified ground or anything else.

By Mr. Carvell:

Q. Had any questions arisen over quantities between the engineer and the contractors?—A. There had been a question, now that I recollect it, down on the first sub-contract out of Winnipeg, I believe I had an engineer named McDougall there, and he said that the sub-contractors had said to him they were not getting enough. I had spoken to Mr. McTaggart, the division engineer, about it; he, I believe, had looked into it, and I had also spoken to my assistant district engineer, who, at that time was Mr. Armstrong, and he had looked into it and they all backed up the engineer.

Q. That is the only instance you now recollect of a question about the quantities?—A. Later on—or I do not remember whether it was in June, or before or after June, Mr. McArthur spoke to me and said he was not getting enough measurement, he used the words "enough measurement and enough classification." I said, "whereabouts?" and he said, "It is general, all my subs are complaining."

Q. His subs were complaining, did he say whether it was only as to measurements or classifications?—A. That is what I wanted to get from Mr. McArthur, and he said, "It is general;" I said, "Tell me who it is, give me one instance?" He said, "I do not know, it is general all over the line." I said, "Let us start from Winnipeg." I forget the first contractor's name, but I said, "Is he kicking?" and he said," "No." I said, "Is Walsh kicking?" and he said, "Yes." I said, "What is the matter with Walsh?" and he said, "Walsh claims he is not getting enough classification on a certain cut, and that the engineers haven't measured enough." I said, "I will change engineers there, I will take the engineer who is the resident engineer on the next west section, and have him measure it, and if he doesn't satisfy Walsh I will get Mr. McTaggart, the division engineer, to go and measure it himself, or I will send Mr. Ruddick out of my own office; I will do anything like that to test it." I said, "Mr. Hazlewood is an engineer, too, and can measure them in Mr. McArthur's interest, and if there are any objections to measurements made by my engineers, Mr. McArthur has his own engineers, and they can measure it; there practically can only be one result in measurement," and I found afterwards that Hazlewood and McTaggart had made really the same measurement.

Q. There was no serious question about measurement?—A. Not that I looked upon as serious, Mr. McArthur looked upon it as serious.

Q. That is what I wanted to get.

Committee rose at one o'clock.

APPENDIX No. 5

THURSDAY, May 21, 1908.
4 o'clock p.m.

Cross-examination of Major Hodgins continued.

By Mr. Murphy:

Q. Before the adjournment this morning, major, you were telling us about the interview you had with Commissioner Young, at Winnipeg, early in June, 1907. You detailed the conversation, the greater part of it at least, and in answer to a member of the committee you stated that whatever was said by Mr. Young did not convey any idea of anything improper to you?—A. Oh, nothing at all.

Q. And that you had not spoken to Mr. Parent, the chairman, about it?—A. I don't remember speaking to Mr. Parent.

Q. Do you know whether Mr. Young had been on the work in Quebec?—A. I could not say.

Q. On this La Tuque work before that conversation?—A. Why, I could not say anything at all about it. I simply thought he was talking about a subject that he did not know, and I don't know whether I said to him that he might be anxious to help the contractor.

Q. That what?—A. I thought he might be anxious to help the contractor, but that was all. The conversation we had did not convey to me any idea on Mr. Young's part that he was doing anything improper, but he was ill-advised in talking on the subject.

Q. And from that you drew the inference that he did not know what he was talking about?—A. Talking on a subject he did not understand as well as I did.

Q. That I take to be the meaning of your answer? You discussed Mr. Doucet and his work on that occasion to some extent?—A. Yes, he referred to Mr. Doucet's work and, as I said, I replied and said that if Doucet were up on my work he would do the same as I was doing, and that if I were on his work I would do the same as he was doing.

Q. And the reference by Mr. Young, as I understand it, to your going down there was for you to see how Doucet was doing things?—A. He said, 'You had better go and see.'

Q. How Doucet was doing things?—A. Exactly.

Q. That is not the occasion on which Mr. Young used the words 'Get an object lesson'?—A. That is the time, yes.

Q. That was the time?—A. Yes.

Q. Did he use those words?—A. I think so. I am certainly under the impression that he did.

Q. Well, I am asking you now whether Commissioner Young on that occasion actually used the words 'object lesson'?—A. Yes.

Q. You swear to that?—A. Yes, to the best of my memory that was the impression conveyed to me, those words, and I have always——

Q. I know that might be an impression. That is, if you have got an impression and want to convey to somebody else in your own language what that impression was you might properly enough say that Mr. Young told you to get an object lesson; but what I am asking is, did Mr. Young actually use those words in speaking to you?—A. I think so.

Q. Well, I would like you to be exact about that because he denies it.

Mr. HODGINS.—That is, you are advised that he denies it?—A. I want to be fair now on this.

Q. I understand that, major?—A. He spoke about Doucet and I said, as I told you just now, that if Doucet was on my work he would do exactly the same as I did, and I said that if I was down on his work I would do the same thing as he did, and he said to me, 'Well, you had better go down and see and get an object lesson.'

Q. Now are you sure those were the exact words?—A. I am not as certain of those words as I am of my own. If Mr. Young denies it why——

Q. Then you would return, as I understand it, to what you said a moment ago, that was the impression it left on your mind?—A. Exactly.

Q. But you did not think it conveyed any improper suggestion to you at the time? —A. Oh no.

Q. Or since?—A. Nor since. My reply to him shows that if I were down there I would be doing it as Doucet was doing it, and if Doucet were on my work he would do exactly as I was doing. We had the one classification to go on and material is easily judged. The engineers I thought were experienced men and in my opinion they were classifying all right. They would ask me on one or two occasions about things and we agreed.

Q. Was it also at Winnipeg on the occasion of the visit early in June of the commissioners that you had the interview that you had spoken about with Commissioner Reid?—A. I spoke about an interview with Mr. Reid in Winnipeg.

Q. Yes?—A. And also in Ottawa.

Q. But I am speaking now about the Winnipeg one. Did the interview that you say took place between you and Commissioner Reid at Winnipeg take place on this occasion early in June?—A. Yes.

Q. Last June?—A. Yes, that one I am referring to.

Q. Where did that take place?—A. In the hotel.

Q. In the Royal Alexandra Hotel?—A. Yes.

Q. Who were present?—A. I am not certain. Mr. Reid and I were alone sitting on the sofa I think, for a considerable period. Mr. Young and Mr. Lumsden had been there but they had gone away.

Q. Yes. What day was this, the first day the commissioners arrived in Winnipeg? —A. I think so.

Q. You think so?—A. Yes, I am not certain.

Q. Well, perhaps you could locate it in another way. Was it the same day as that on which you had the interview with Mr. Young?—A. I think so.

Q. You think so?—A. We were in the hotel altogether. I would not be so certain.

Q. Well, what time of the day was it?—A. I would not be certain about that. I think it was before luncheon. I am not certain on that point.

Q. You think it was about mid-day some time. A little before luncheon?—A. Yes, I would not be certain.

Q. Now just tell us, major what was said at that interview between you and Mr. Reid?—A. I spoke of Mr. Young. I think I said he was interfering.

Q. Yes?—A. And I think Mr. Reid said, 'Yes, it may be. If he is, he is doing it in a good-natured way,' or something like that.

Q. He had a kind heart?—A. Mr. Reid said that if Mr. Young was interfering, he was doing it in a good-natured way. I quite agreed with him.

Mr. BARKER.—We cannot hear the witness.

The WITNESS.—I say I quite agreed with him.

By Mr. Lennox:

Q. Agreed with what?—A. That if Mr. Young was interfering, he was doing it in a good-natured way.

By Mr. Murphy:

Q. Yes?—A. If I did not say it I had it in mind. It is very hard for me to repeat verbatim what these conversations were. I have only got an impression of these conversations in my memory.

By Mr. Macdonald:

Q. Surely you knew more than impressions of conversations before you deliber-

ately wrote letters to the public press?—A. Well, the impression conveyed in conversation——

Mr. MACDONALD.—You ought to have more than an impression.

By Mr. Murphy:

Q. Well, what else was said, not your impression of what was said, but what *was* said?—A. He said that—I don't want to get those two interviews mixed up.

Q. No, we want to keep them separate?—A. He said that—I think he said something about Mr. Lumsden.

Q. Yes, what else?—A. And he said I probably referred too much to him.

Q. Yes?—A. There were a great many things that I ought to do myself without referring to anybody.

Q. Yes, anything else?—A. He did not speak so plainly in that interview as he did in the interview at Ottawa.

Q. Never mind the interview at Ottawa, we will get that later. I am asking you now about the interview at Winnipeg. I want to clear that up as we go along. Was anything else said by Mr. Reid on that occasion that you recall? (No answer).

Q. Do you recall anything else that was said by Mr. Reid on that occasion?—A. I don't think he mentioned anything about ignoring the chief engineer on that occasion, but he referred to it in this way: that Mr. Doucet did not refer very much to him.

Q. Did not which?—A. Did not refer very much to the chief engineer.

Q. That Mr. Doucet settled matters himself?—A. Exactly.

Q. Anything else?—A. That is all I can remember just now.

Q. That is all you can remember just now. Then there was no talk about classification on that occasion?—A. I think there was.

Q. Well?—A. Classification and lack of men were the chief topics to be discussed.

Q. That is so far as you are concerned, but I am asking you about this particular interview between yourself and Mr. Reid?—A. Yes, I mentioned to him that McArthur had made some objections to classification in a general way.

Q. You mentioned what?—A. McArthur had made some objection to classification in a general way.

Q. Yes?—A. Not in detail.

Q. Yes?—A. I think that was all.

Q. Now are you quite sure that you mentioned even that?—A. To Commissioner——

Q. Reid?—A. Well, if I did not mention it in that particular conversation I must have mentioned it before, because I interviewed them all, more or less. We were talking together and sitting together.

Q. We are speaking only of the interview between you and Commissioner Reid in Winnipeg at the Royal Alexandra Hotel on the occasion of the commissioners' visit early in June last year. I want to know if at that interview on that occasion there was any talk at all about classification with Commissioner Reid?—A. Oh yes.

Q. Well, now, what was said?—A. McArthur was kicking about classification generally, and there was no possible way of helping them out to a very great extent.

Q. That is not an answer, that is just a statement. I am asking you what was said about classification at that interview?—A. Well, that is all I can remember. I cannot——

Q. What was said?—A. I cannot remember the words that he said.

Q. As near as you can remember?—A. That is as near as I can remember.

Q. What is as near as you can remember? Just repeat it please, and what was said?—A. I told Mr. Reid that Mr. McArthur was kicking in a general way about classification, and it was not a very extensive matter.

Q. I see. Did it end there on that occasion?—A. I think so, yes. I don't remem-

ber now. I am getting those conversations mixed up, Mr. Murphy. I am trying to straighten them out, I don't want to——

Q. Did you not on that occasion tell Mr. Reid or complain to Mr. Reid in a general way about some of your engineers not being satisfactory?—A. Can you give me the name of the engineer?

Q. I am asking you if you made any complaints in a general way to Mr. Reid about the engineers not being satisfactory?—A. I do not remember.

Q. You won't swear you did not?—A. No.

Q. Did you not on the same occasion say to Mr. Reid that you were afraid that if you reported these engineers they would appeal to Commissioner Young over your head?—A. No.

Q. What is the answer?—A. Indeed, no.

Q. Is your answer that you did not say that, or that you don't remember?—A. I did not say it.

Q. You did not say it?—A. No, certainly not.

Q. Are you quite positive as to that?—A. Quite positive. I cannot place any engineers whom I could place that on.

Q. You cannot do what?—A. I cannot fix that on any engineers. I don't know what engineers would have appealed to Mr. Young over my head.

Q. Do you not remember Mr. Reid telling you to report any of the engineers who were not doing work to your satisfaction?—A. No.

Q. Do you recall any statement made by Mr. Reid to that effect?—A. No, I do not.

Q. Do you remember any discussion on that occasion about Engineer Wilkie?—A. No.

Mr. HODGINS.—Who?

Mr. MURPHY.—Mr. Wilkie.

A. No. I do not.

Q. Well, it is strange, but Mr. Reid does. Was there not some discussion about Mr. Wilkie's removal?—A. Wilkie was not removed until after I left.

Q. I am not asking when he was removed, I am asking if there was not some discussion on the occasion of this interview between you and Commissioner Reid about Mr. Wilkie's removal?—A. I don't think so.

Q. Or about Mr. Wilkie wanting removal?—A. No.

Q. Perhaps I do not put it right?—A. I think Mr. Lumsden was the only one I discussed it with, but I don't think it was on that occasion. I don't know whether the question of Wilkie had come up then.

Q. I see. So that taking what you have told us now as being your recollection of what transpired at that interview?—A. Yes.

Q. There was no suggestion of an improper kind made by Commissioner Reid to you?—A. No.

Q. In discussing the matter with Commissioner Reid that day I suppose you were speaking about the general state of affairs on the work as you have explained?—A. I expect so.

Q. You have told us that you mentioned about some complaints made by McArthur?—A. Exactly.

Q. Were those complaints made to you personally by McArthur?—A. McArthur had said once or twice to me, speaking in a general way, that the contractors were complaining, and, as I said before, I always wanted to find out exactly where the complaints could be located.

Q. Naturally?—A. I offered to go out on the work several times with McArthur. I said that at any time he fixed the date I would put off anything and go with him.

Q. You told us that in your examination-in-chief?—A. Yes.

Q. You had a complaint from a sub-contractor named Walsh, did you not?—A. Yes, the one on the prairie, the first contract out of Winnipeg.

Q. Did McArthur continue to make those complaints?—A. I think McArthur

spoke to me about Walsh having complained in a general way. Well, I fixed it on Walsh. He first of all told me it was general. I said, 'Can you give me any particular contractor?" He said "Oh no." I said "Well, now, give me the name of one." He said "It is general." I said "Let us start from Winnipeg. What about Wardrope?" That was the first name mentioned. He said no, that Wardrope had not made any complaints. Then I said "What about Walsh?" "Yes," he said, Walsh had complained about classifications and measurements. Then I said I would look into it.

Q. Was that conversation before or after the visit of the commissioners to Winnipeg in June?—A. That conversation was when they were—do you mean with McArthur?

Q. Yes?—A. Or before it?

Q. The conversation you have just spoken of?—A. Before?

Q. Before the visit of the commissioners to Winnipeg in June?—A. Yes.

Q. Had any complaints been made by McArthur just about the time of the visit of the commissioners?—A. No. Let me see now. Yes, McArthur had complained.

Q. He had complained?—A. Complained of his estimate generally.

Q. Did he make complaints after the visit of the commissioners?—A. Yes.

Q. How long after it?—A. I forget the date now.

Q. Well give the date approximately, the same month?—A. No, I was away from there all that month—the balance of the month of July. I don't know whether McArthur made complaints direct or whether I got them from Hazlewood, his engineer.

Q. You are not sure whether McArthur made complaints direct, or whether you received them from Hazlewood, but you do know they were made?—A. Yes.

Q. And about what time after the visit of the commissioners?—A. I think I had a letter from Hazlewood about some re-measurements. That would be in the office at Kenora. I don't know the date.

Q. Hazlewood was one of McArthur's engineers?—A. Yes.

Q. Would that be some time in July?—A. Possibly.

Q. Do you remember any other complaints?—A. There was a complaint. It was not a complaint. Well possibly it was a complaint about Guy Campbell, another contractor not having been paid for some work he had done on an abandoned line and some houses he had put up.

Q. I see. Do you recollect any other complaints?—A. That is all.

Q. What do you mean by this sentence in your letter to the 'Colonist,' "I got no assistance from the chief engineer?"—A. Well first of all in Quebec I asked the chief, I began a conversation with him, to find out his opinion on Quebec classification, the classification I had seen in that cutting. He replied that he did not know anything about it and turned away.

Q. Yes?—A. Then I spoke to him about the difficulties connected with Mr. Grant's appointment, his coming up there as inspecting engineer.

Q. When was that?—A. After we came from Quebec. Before Mr. Grant went up or about the time he was leaving to go up.

Q. What difficulties existed then about Mr. Grant's appointment?—A. He had been appointed as inspecting engineer. I dont know what his duties were. I said "Two men cannot run my district."

Q. Yes?—A. And the chief agreed with me.

Q. Yes?—A. And we discussed the appointment.

Q. Yes, what else?—A. And he said he had issued instructions that Mr. Grant would give no orders up on the work.

Q. Yes?—A. He told me that he had objected to Mr. Grant's appointment but it had been overruled.

Q. By whom?—A. He did not say.

Q. Well that is not explaining what difficulties existed just after your return from the trip to Quebec, about Grant's appointment?—A. That is one of them.

Q. With whom did that difficulty exist?

MR. HODGINS.—Where do you find the word "difficulty?"

MR. MURPHY.—I find it in the major's language, in his answer to my question.

MR. HODGINS.—I thought you referred to this letter?

MR. MURPHY.—We will get back to the letter after a while.

THE WITNESS.—Then after Mr. Grant's report——

By Mr. Murphy:

Q. No, no. Just wait a moment. You are going too fast now. I want to know major, what do you mean when you say that you spoke to Mr. Lumsden after your return to Quebec?—A. Yes.

Q. In June about the difficulties that existed regarding Grant's appointment? A. Exactly.

Q. What were those difficulties?—A. I could not see what use an inspecting engineer——

Q. Oh, I see. That constituted the difficulties?—A. Mr. Lumsden——

Q. Never mind, we will get Mr. Lumsden afterwards. So that was the difficulty which existed?—A. Exactly. He discussed it with me.

Q. Were you taking the position that the commission ought to consult with you before they made the appointment?—A. I was consulting the chief engineer.

Q. And complaining?—A. I did complain.

Q. And you kept complaining?—A. I had finished my complaint. I was discussing the situation.

Q. It was a pretty lengthy one? It lasted from here to Quebec and you talked of it day and night?—A. No.

Q. On the boat going down?—Yes, I said what I thought on the boat.

Q. At La Tuque and in Quebec to Armstrong?—A. I did not complain to Armstrong.

Q. You did not say anything to Armstrong about Grant?—A. I expect we talked about it.

Q. Don't you know you did?—A. Yes.

Q. So these difficulties were your own difficulties?—A. Exactly.

Q. Your annoyance at Grant's appointment?—A. Yes.

Q. Why should you have felt so much annoyed?—A. Because a junior man had been put over my head to go up to my district and arrange classification.

Q. Did you know Mr. Grant before that?—A. No.

Q. How did you know he was a junior man?—A. He was an assistant district engineer in Quebec.

Q. Were there other district engineers besides yourself?—A. Yes.

Q. Were they annoyed at Mr. Grant's appointment?—A. I think all were except Mr. Poulin.

Q. All except Mr. Poulin?—A. Yes.

Q. Have any of them ever said so to you?—A. Yes.

Q. Who?—A. They all spoke about the appointment on the boat going down, at least Mr. Dunn did and I think Mr. Molesworth.

Q. They all spoke about it, but were they registering complaints against that?—A. Yes.

Q. To you?—A. Yes—no, to the commissioners, we were all sitting on the deck somewhere.

Q. I see, it was a general discussion?—A. Yes.

Q. And do you know whether other district engineers went around talking to men like Mr. Armstrong about the appointment?—A. I could not say.

Q. So far as you know the difficulties that you have spoken of here a few minutes ago, consisted entirely with yourself?—A. As far as I know.

Q. Now, you have spoken of Mr. Grant being appointed to go over your district, that is only a partial statement?—A. In that way?

Q. Wasn't he appointed to go over the whole of the line, it was not over your district especially?—A. No.

Q. So that as a matter of fact there was no reason why you should take umbrage at his appointment any more than the other district engineers?—A. If I remember aright at the time, my district and the Quebec district were the only districts in which there had been any considerable amount of work done.

Q. But he would have the same inspection over the other districts as the work progressed on them, would he not?—A. Yes—the other engineers discussed it with me.

Q. Further on in your letter to the 'Colonist' you say, 'I thought if the commissioners interfered with me any further Sir Wilfred Laurier would set matters right as soon as I appealed to him.' Now, what interference up till the time you had been speaking of had the commissioners exerted against you?—A. Well, it was the appointment of Mr. Grant, I judged that, and from what I had seen and heard in Quebec, I could not approve of that classification.

Q. What do you mean by the Quebec classification?—A. The classifying of cemented material as solid rock.

Q. Where was that done?—A. That is what I saw in Quebec.

Q. Where?—A. In that cutting, that first cutting.

Q. In that cutting. You referred to a house you saw going up somewhere in that district, and your reference to it and to the question you afterwards addressed to the chief engineer sounded as if you intended your reference to the Quebec classification to cover that house?—A. No.

Q. You did not? Where was this house you spoke of—A. It was west of the cutting.

Q. At or near LaTuque?—A. Yes, on the other side of a large hill, and we passed it in carriages, we were on one side of the bank and the house was being built on the other side, I could only see the top, but I could see it was a large one.

Q. It was under construction, was it?—A. It was under construction.

Q. How far had it advanced?—A. I think the roof was on it, the chimneys were up, I could not say from where I was whether it was shingled or not.

Q. At what distance were you from the house when you saw it?—A. Well, the bank was between us and the house and I could only see the upper portion of it.

Q. You could only see a portion of it?—A. Yes, I could only see the top of it.

Q. That altered your statement of yesterday very materially?—A. In what way?

Q. You only saw the top of it?—A. Yes.

Q. Who was with you?—A. In the carriage?

Q. Yes?—A. I do not remember—I asked what the building was.

Q. Whom did you ask?—A. Mr. Armstrong, he was there.

Q. Was he in the carriage with you?—A. Yes, I asked him.

Q. Who else?—A. There were two others, four of us in the carriage.

Q. Mr. Armstrong was there, who were the others?—A. I do not remember who the others were.

Q. As a matter of fact you were alone when you saw the house, were you not?—A. No.

Q. Do you still say Mr. Armstrong was with you when you saw the house?—A. Yes, because I asked him what it was for.

Q. But at the time you saw it, was that the time you asked him?—A. Yes.

Q. What was the reply?—A. That it was the division engineer's house.

Q. It was a house on the work?—A. Yes, on the other side of the bank.

Q. But so located that, by reason of the intervening bank, you only saw the top of it?—A. Only the top of it.

Q. You never saw it since, you made no inspection of it?—A. No.

Q. Then why did you ask if that was to be the standard?—A. Because it was a very much larger house than my division engineers had.

Q. It did not mean 'Quebec classification,' that that was to apply to Quebec specifically?—A. No, I had considered how to approach Mr. Lumsden on this occasion.

Q. Oh, you were starting some tactics?—A. No, that is the first question I asked him.

Q. And Mr. Lumsden, you say, did not care to discuss the matter and walked away, or turned away, is that correct?—A. That is correct.

Q. Now you say, 'I thought if the commissioners interfered with me any further Sir Wilfrid Laurier would set matters right as soon as I appealed to him.' Did you ever appeal to Sir Wilfrid Laurier?—A. Not directly.

Q. Not directly—was there any appeal made to him that you know of?—A. Yes.

Q. To set matters right?—A. To have the investigation that I was making when I received my notice from Mr. Lumsden, finished.

Q. To have that finished—I see, what was the result?—A. No answer.

Q. That is how that matter stands, as far as you know?—A. Yes.

By Mr. Macdonald:

Q. I understand you to say you never yourself applied to Sir Wilfrid Laurier for an investigation?—A. I have never written a letter to Sir Wilfrid Laurier; I do not remember writing one, and I am pretty certain I did not.

By Mr. Murphy:

Q. You go on to say in your letter, 'Here I made a miscalculation, the chairman of the commission, Monsieur Parent, got in first and hypnotized the government,' what do you mean by that?—A. Well, he evidently told his side of the case.

Q. How do you know?—A. From the reports I have seen in the papers and the returns made before the House.

Q. Had you any other reason for making that statement that he had 'hypnotized the government'?—A. No.

Q. What do you mean by that expression that he had 'hypnotized the government'?—A. That he had laid his side of the case before the government, and I hadn't a chance to lay mine.

Q. There was no issue between you and Mr. Parent, was there?—A. Apparently I was——

Q. You do not know of any up to that time, there had been no clash or discussion, or friction of any kind between you and Mr. Parent?—A. Well, Mr. Lumsden wrote to me and said that owing to the feeling at Ottawa he was going to make a change, and I presumed it was the remarks I had made in connection with Mr. Grant's appointment.

By Mr. Macdonald:

Q. Why did you select Mr. Parent as the gentleman who was representing everything at Ottawa?—A. Because he was the only one who had communication with the government.

Q. You had no knowledge at all on the subject?—A. No.

Q. It was an inference, which so far as you knew, was absolutely without foundation, as a matter of fact?—A. He is the one who had communication with the government.

Q. Well, as a matter of fact, have you any facts within your own knowledge that will lead you to say that Mr. Parent exercised any influence contrary to you in this matter?—A. Any fact to show that he did?

Q. Yes, other than impressions?—A. I do not think so.

By Mr. Murphy:

Q. Your letter proceeds, 'And I was removed for other reasons, no investigation

'into my case was allowed,' now, what were these other reasons?—A. The reasons stated by Mr. Parent.

Q. What were they?—A. I have forgotten exactly what they were, they are stated in his letter and in his interview with the press; Mr. Lumsden said that it was because I could not get on with the men and the contractors, and Mr. Parent said that I had given an order to resort to cost, force account, and ten per cent.

Q. But when you say, 'I was removed for other reasons'; what do you mean, reasons other than what?—A. For reasons other than I attributed it to.

Q. 'And no investigation into my case was allowed'?—A. No.

Q. Who declined an investigation into your case?—A. The Minister of Railways.

Q. What had he to do with investigating your case?—A. I saw that a question had been asked in the House, I have forgotten just what it was, but it was said that I had been dismissed and it was asked if an investigation was to take place, and the Minister of Railways said that I had been dismissed because my services were not satisfactory to the commission, and that no investigation was necessary.

Q. That no investigation was necessary?—A. Yes.

Q. That is quite a different thing from refusing an investigation isn't it?

Mr. Hodgins.—'No investigation into my case was allowed,' he said.

By Mr. Murphy:

Q. That is what I am asking him about, and this is his answer now. Did you personally apply for an investigation?—A. An investigation into classification?

Q. Did you?—A. Yes.

Q. First of all, did you apply personally for an investigation into your case?—A. No.

Q. Then did you apply for an investigation into classification?—A. Yes, Mr. James Conmee came into my office.

Q. Wait, now, did you apply?—A. For what?

Q. For an investigation into classification?—A. Yes.

Q. Through whom did you apply?—A. Mr. James Conmee.

Q. What had he to do with the investigation?—A. Just that he was member for the district, he came into my office and I talked the question over with him.

Q. First of all, when was this?—A. I think it was two days after I got my notice from Mr. Lumsden.

Q. Two days after you got your notice from Mr. Lumsden?—A. Yes.

Q. Well?—A. And I spoke to him about it, and I told him what I knew, what I had been doing, and I showed him some correspondence, and I brought Mr. Mann in and let him question Mr. Mann about this matter. Mr. Conmee is an old contractor.

Q. Mr. Mann is one of the Grand Trunk Pacific engineers?—A. He is the Grand Trunk Pacific engineer, and Mr. Conmee questioned Mr. Mann on the matter, and he wired to Sir Wilfrid Laurier and Mr. Aylesworth.

Q. Yes, what did he wire?—A. He wired something to the effect——

Q. Did you see the telegrams?—A. He read the telegrams to me.

Q. Did you see them sent?—A. Yes, one of my men took them down.

Q. Did your man send the message; is he an operator?—A. No, he was my accountant.

Mr. Hodgins.—Are you asking what the contents of the telegram is?

Mr. Murphy.—Yes.

A. Recommending that the investigation should go on, something to that effect.

By Mr. Murphy:

Q. That this investigation which you had been making and which had been stopped should go on, is that it?—A. Yes, that had been stopped.

Q. That is the investigation you refer to here in your letter?—A. Yes. I also wrote to Mr. Aylesworth, but never got any reply.

Q. You did not get any reply from him?—A. No.

Q. Now this conversation with Mr. Conmee took place in your office at Kenora, did it?—A. At Kenora, yes.

Q. What date was that?—A. The 17th or 18th of September, I think.

Q. The 17th or 18th of September?—A. Yes, I think that was the date.

Q. Do you know what day of the week it was?—A. No, I do not remember.

Q. Can you recall the date of that interview, major?—A. No, except that it was one day or two days after I got Mr. Lumsden's letter, I think.

Q. When you got Mr. Lumsden's letter, what did you do? Did you communicate with him in any way?—A. I wired him not to do anything until I came to Ottawa.

Q. Did you have any further communicaation with him just about that time?—A. Yes, I applied for three months' leave instead of one, I wired him.

Q. You wired him. So that this interview took place with Mr. Conmee while this correspondence was passing from you to Mr. Lumsden?

Mr. HODGINS.—He did not say that.

A. I do not remember, I haven't got the dates, or the date of the telegram.

By Mr. Murphy:

Q. What was your first telegram, you say it is produced here? What was the text of it?—A. That I would be down in Ottawa, that I would come down to Ottawa.

Q. That you would come down to Ottawa?—A. Yes.

Q. And to do nothing further. That telegram is produced, and reads:

KENORA, Sept. 16.

'Hugh Lumsden, Ottawa.

Please take no action until I arrive Ottawa, leaving Wednesday.

A. E. HODGINS.'

Q. Is that the telegram you refer to?—A. Yes.

Q. Now, was that the same date on which you had the interview, do you think?—A. What interview?

Q. With Mr. Conmee?—A. No, I think I had the interview with him afterward. What is the date of that telegram?

Q. 16th September?—A. Well, that is the date I got my notice. Mr. Conmee came in——

Q. Oh no, you got your notice before that?—A. What is the date of the notice?

Q. 12 September?—A. It would be the 15th or the 16th before I got the notice; it takes three days to come up there.

Q. If the 12th was on Thursday, as it was, and the notice bore date on that day, and was posted that day, when would it reach Kenora?—A. On what day was it dated, the 12th?

Q. Yes?—A. About the 15th.

Q. That would be Sunday, the 12th was on Thursday?—A. Sunday, yes. It was Sunday or Monday I got it.

Q. Now do you remember when you actually received the notice?—A. What day was the 12th?

Q. Thursday?—A. Sunday.

Q. Sunday, the 15th?—A. I got it on Sunday afternoon.

Q. You think you got it on Sunday afternoon?—A. Yes.

Q. I think that is right, you were in your office on Sunday afternoon, the 15th?—A. Yes.

Q. Was Mr. Heaman there?—A. No.

Q. Was Mr. Mann there?—A. No—no, I got it in my house in the evening, the letter was brought over to me.

Q. On Saturday or Sunday, which?—A. On Sunday—I won't be certain.

Q. Then this telegram of the 16th was sent on the following day, Monday?—A. On Monday, yes.

Q. You had been out on the line just before that?—A. Yes, I had just come in.

Q. And had you been in your office before you received that notice from Mr. Lumsden?—A. Yes.

Q. Did you get that notice on your visit to the office?—A. No, I got into the office on Saturday about six, and looked over some—I think I got in in the evening—I do not remember now whether I went to the office that day or not.

Q. What time on Saturday did you get to your office?—A. I am trying to think, I came from Vermilion Bay, but whether I came in on the regular train or the mixed train, I cannot recollect.

Q. Well, what time did you get to your office?—A. Some time in the afternoon; I am not sure whether I went to the office or not that day.

Q. You are not certain whether you went to the office that Saturday afternoon or not?—A. I expect I went up there to see if there were any letters.

Q. But you do not remember getting the notice from Mr. Lumsden?—A. Yes.

Q. And the next day was Sunday?—A. No, it was Sunday I got it I think; I think it was brought over with some of my letters.

Q. And then you had this interview with Mr. Conmee?—A. If I could fix the day Mr. Conmee came to my office—he was introduced to me, I had not seen him before and I did not say anything to him then.

Q. That was at your first meeting with Mr. Conmee?—A. Yes, and the next day, after thinking it over, I thought I had better go down and talk to him, which I did and he came over to my office.

Q. And it was after that conversation the telegram was sent?—A. Yes.

Q. Did you ask Mr. Conmee to send that telegram?—A. No, I asked him for advice.

Q. You haven't been able to fix the exact time of getting back to Kenora on Saturday the 14th of September, but you do remember going to your office and getting some letters?—A. No, I am not certain whether I did go to my office; the office would be closed on Saturday afternoon and I am not certain what time I got it.

Q. None of your staff would be there when you got in?—A. No, they would not be there on Saturday afternoon.

Q. And you know for a fact that it was Saturday afternoon when you got back to Kenora?—A. I left Canyon Lake in the morning and rowed down to Vermilion Bay and I think I had lunch there and waited for the train, but whether I came in on the mixed train or the express, I have forgotten. If it was the express, I think the express got in about four or five and the mixed train would come in at any time about eight. I have forgotten now what time it was.

Q. You have forgotten?—A. Yes.

Q. At any rate you knew there would be none of your staff in the office that afternoon?—A. No.

Q. You did not reach Kenora until the afternoon?—A. I could not possibly.

Q. And it may have been the evening, it all depends upon the train you took?—A. Yes.

By Mr. Hodgins:

Q. Was the train on time?—A. I do not remember.

By Mr. Murphy:

Q. Following your telegram of the 16th to the chief engineer you sent another on the 20th, which is produced here?—A. Yes.

Q. That telegram is dated at Kenora, September 20, 1907, and the translation of the cipher message is as follows:

'Hugh D. Lumsden, Ottawa.

Understand Sir Wilfrid does not wish to interfere, therefore I submit, but think

you might give me leave, for three years' work without any leave. Who is my successor? Want my account audited without unnecessary delay.

A. E. HODGINS.'

Referring now to your telegram of the 16th of September, in which you ask Mr. Lumsden to take no action, and to your telegram of the 20th, in which you say 'understand Sir Wilfrid does not wish to interfere, therefore I submit, but think you might give me leave, for three years work without any leave. Who is my successor? Want my account audited without any unnecessary delay.' Does the language of these two telegrams indicate that you were making some effort between the date of the first and the date of the second to retain your position?—A. Well, I was expecting to hear something from Ottawa. I heard that Mr. McIntosh was going down—Mr. McIntosh telegraphed me that he was going down to Ottawa——

Q. But is it a fact that between these two dates and after the sending of your first telegram you did get busy and endeavour to use interest to retain your position?—A. Yes.

Q. And that is what the reference in your telegram of the 20th is to, 'understand Sir Wilfrid does not wish to interfere,' is it not?—A. Yes.

Q. Now further on in your letter to the 'Colonist' you say under the heading 'Increase Accounted for'—

'If Monsieur Poulin, the engineer appointed by Monsieur Parent to replace me on the western district has allowed the introduction of classification similar to that in Quebec, this will account for an increase in the estimated cost of the line. If this increase amounts to three or four million dollars (33⅓ per cent), it is time the public demanded some explanation from the government.'

Q. You recall that paragraph in your letter?—A. Yes, I do.

Q. By the way, do you speak French, major?—A. Very little.

Q. Do you write French?—A. No.

Q. Except when you write to the 'Colonist'?—A. How do you mean?

Q. If you do not speak French and do not write French——?—A. I understand French a little.

Q. Why do you put the prefix 'Monsieur' before Mr. Parent's name and Mr. Poulin's name in this letter?—A. Well, it is generally done.

Q. Is it generally done?—A. Yes.

Q. Is that your habit? When you are addressing a man, referring to the chairman of the Transcontinental Commission or this engineer, do you say Monsieur Parent and Monsieur Poulin or Mr. Parent and Mr. Poulin?—A. Generally I would say Poulin. Writing an official letter to him I would address him as Monsieur Poulin.

Q. You would?—A. Yes.

Q. Even in the body of the letter?—A. Well, that would be only an official letter.

Q. But if you were not writing an official letter?—A. I would omit the prefix.

Q. Did you ever write such a letter?—A. Who?

Q. You?—A. To Mr. Poulin?

Q. Did you ever write such a letter with the prefix 'Monsieur' to Mr. Parent or Mr. Poulin? (No answer.)

Q. What is the use of losing time, major? It was just to have a cheap fling at these two gentlemen, was it not?—A. No.

Q. No?—A. No, it was not.

Q. That was not the reason?—A. That was not the reason.

Q. Now is it not a fact that you thought that would be palatable to the readers of the 'Colonist'?—A. No.

Q. That was not your reason in doing it?—A. No.

Q. Well, now, what do you know personally about the appointment of Mr. Poulin? We will use the English prefix.—A. Mr. Foss was sent up there first.

Q. Never mind Mr. Foss. What do you know personally about the appointment

of Mr. Poulin?—A. Mr. Poulin came up afterwards and I had several conversations in his office with him before I left.

Q. With whom?—A. With Mr. Poulin.

Q. You say in your letter 'If Monsieur Poulin, the engineer appointed by Monsieur Parent.'. I want to know from you what you know personally about the appointment of Mr. Poulin?—A. I know he was appointed.

Q. You do. Do you know, as you allege in the letter, that he was appointed by Mr. Parent?—A. Well, certainly.

Q. You do. Now, let us have the proof of that?—A. Mr. Parent is the head of the commission.

Q. Yes?—A. And all the appointments must be approved by him.

Q. Do the other commissioners have any say in these appointments?—A. I presume so.

Q. You presume so. Don't you know they do?—A. Yes.

Q. You know perfectly well?—A. They all have some say.

Q. So that Mr. Poulin's appointment was just as much the appointment of Mr. McIsaac, Mr. Reid and Mr. Young as it was the appointment of Mr. Parent?

Mr. HODGINS.—Was it?

The WITNESS.—Well, it is a question.

Mr. MURPHY.—The witness can say that just as well as he can make the other statements.

Q. Don't you know perfectly well from your experience during the time that you were appointed by the commission that nothing is done in the way of appointments except by the board as a board?—A. No.

Q. You do not?—A. I do not.

Q. Name me one appointment of any importance——?—A. Mr. Reid has written to me about appointments; Mr. McIsaac has written me about appointments of men they knew, and Mr. Young.

Q. I am not asking you who wrote about appointments, but who made appointments?—A. They are appointed by the commission.

Q. You were appointed, were you not?—A. I was.

Q. Was Mr. Parent chairman of the Transcontinental Railway Commission at the time of your appointment?—A. No.

Q. Who was the chairman?—A. Mr. Wade.

Q. Did Mr. Wade appoint you?—A. I think he did.

Q. Do you know whether he did or not?—A. I am not certain whether I got a letter from him stating that he would appoint me or not.

Q. I am not asking you that. Don't you know perfectly well that Mr. Wade did not appoint you?—A. I do not. I went to see Mr. Wade.

Q. Don't you know that it was the Board that appointed you?—A. I think Mr. Ryan wrote me.

Q. It doesn't matter who wrote?—A. I have not got the letter here.

Q. That is not what I am asking. I am asking by whom appointments are made. With reference to this allegation of yours in the 'Colonist,' you know that is not correct?—A. How do I know it is not correct?

Q. Well, if it is, then furnish us with the proof?—A. Well, I don't know.

Q. You don't know?—A. No.

By Mr. Macdonald:

Q. At the time you wrote the letter of April the 16th, Major Hodgins, had you any knowledge, as a matter of fact, of the proof of this statement that Mr. Murphy is speaking about?—A. No.

By Mr. Murphy:

Q. Now, with reference to this trip to Quebec that was made in the early part

of June, all the other district engineers were along, were they not?—A. All but one.

Q. Is it a fact that such a trip as that had been spoken of before?—A. No.

Q. To give the district engineers an opportunity of meeting and exchanging views?—A. I never heard of it.

Q. You never heard of it?—A. No.

Q. By whom were you spoken to regarding that trip?—A. Mr. Young.

Q. Mr. Young. Did anyone else speak to you about it?—A. No. I went down with them when they were going back, and when we came to Kenora Mr. Young brought up the subject again and said—I think he spoke to Mr. Lumsden—and said 'Mr. Hodgins had better go down with us to Quebec,' and I said 'I don't want particularly to go to Quebec.' Then Mr. Young said 'Oh, you had better go.' He asked Mr. Lumsden if I could go, and Mr. Lumsden said yes. So I said 'All right.'

Q. That is all the conversation about the trip that you know of?—A. Yes.

Q. So far as you were concerned?—A. I thought when I got down——

By Mr. Lennox:

Q. Do you mean that Mr. Young had never said at Winnipeg——?—A. I thought when I got down from Winnipeg that I would be the only one going down. I was quite surprised on meeting the other engineers.

Q. You mean that Mr. Young had not spoken to you in Winnipeg about going to Quebec?—A. He had spoken to me and said I had better go down to Quebec and see.

By Mr. Murphy:

Q. You say that when you were spoken to, you got the idea you would be the only one on the trip?—A. I thought so. I was quite surprised to see the other engineers.

Q. That was the idea in your mind when you wrote that letter to the 'Colonist,' was it not?—A. How do you mean?

Q. That you were to be the only one on that trip to go down and get this object lesson?—A. I could only speak for myself surely. I did not know what——

Q. Yes, but when you described this trip in your letter to the 'Colonist' you were very careful to refrain from mentioning that there was anybody else on the trip? —A. How do you mean?

Q. I mean the language you used conveyed the impression that Mr. Young told you to do a certain thing and you went to Quebec?—A. Exactly.

Q. Following his instructions?—A. Exactly.

Q. You carefully, I say, refrained from stating that the other engineers were there with you on that trip and that the commissioners were there? You said nothing about that in your letter to the 'Colonist'? Is that not the fact?—A. Yes.

Q. Why did you suppress those facts?—A. They were not suppressed.

Q. Why did you not mention them?—A. Why should I?

Q. Why should you create a wrong impression?—A. You are creating the wrong impression.

Q. No I am not, I beg your pardon?—A. Pardon me.

Q. (reads): 'Mr. C. A. Young, Commissioner for Manitoba, then advised that I should go to Quebec'——?—A. Exactly.

Q. So far it is a matter between you and Mr. Young?—A. And I have added that when I got to Montreal I found that all the other engineers were going down.

Q. We are not talking about that. We are talking about something which you did several months afterwards when you wrote a letter to the newspapers and created a wrong impression by the language you used. (Continues reading):

'that I should go to Quebec and see how things are managed in that district, where contractors were not kicking, and get an object lesson'?—A. Exactly.

Q. (Continues reading): 'I went and returned determined not to allow Quebec classification to be introduced into the western district as long as I remained in charge'? —A. Yes.

Q. Now what impression could any person get, reading that letter of yours, but that you went there and went alone?

Mr. LENNOX.—It does not necessarily convey that impression?—A. I am not writing for the staff. I am writing for myself.

By Mr. Macdonald:

Q. Did you intend to convey the impression that you went alone?—A. No.

By Mr. Murphy:

Q. You did not?—A. No.

Mr. MACDONALD.—Your language would indicate that you had been specially asked to go apart from the other engineers.

Mr. MURPHY.—Certainly.

Mr. LENNOX.—It creates the impression that the conversation was with him alone. It does not say that there was not a party invited at one time. It is the proper way of stating the facts, as we understand them, I think.

Mr. MURPHY.—Well the committee know the facts now in any event.

Mr. HODGINS.—He did not know what the invitations to the other engineers were or know of them.

Mr. MURPHY.—He did because he has told all about it.

Mr. MACDONALD.—Major Hodgins has appealed to the public in regard to matters in which he says he was wrongly treated. The irresistible inference from what he has stated to the press is that he was especially selected to go down to Quebec to learn how to classify incorrectly.

Mr. BARKER.—Would you accuse Mr. Young of deceiving Major Hodgins if he did not tell him he was inviting others?

Mr. MACDONALD.—He indicates that others were not asked to go. You are arguing about something else.

Mr. BARKER.—I am taking your own illustration.

Mr. LENNOX.—Under the circumstances, as we understand them, the language he employed was the proper language.

Mr. MACDONALD.—We understand now that he did not go alone and was not asked to go alone.

By Mr. Murphy:

Q. Now you know, major, that Inspecting Engineer Grant, to whom you took such exception, submitted his report to the chief engineer on July 23rd last?—A. Yes.

Q. And you were communicated with immediately afterwards about that report, were you not?—A. Yes, Mr. Lumsden wired me to come down.

Q. And you did come?—A. I did.

Q. You saw a copy of the report?—A. Yes.

Q. And you prepared a reply to it?—A. The best I could, yes.

Q. How long were you here at that time?—A. I forget now, I was here a couple of days.

Q. You were here a couple of days?—A. The report was not typed out, I believe, when I came and I had to wait for it probably two days or a day and a half.

Q. In answer to your counsel yesterday you said you were here three days?—A. Well three days. I am not certain how long I was here.

Q. All your time was not occupied in preparing an answer to the report?—A. No, I was looking up plans and profiles and writing——

Q. You were looking up plans and profiles?—A. And writing, making notes of what I could gather in the office, in the assistant chief engineer's office, I think it was.

Q. And you were here until the 1st August in any event?—A. Yes.

Q. You filed your report on July 31st or sent it in?—A. That is the date it was written.

Q. It has been filed here as Exhibit 29. I will just read you what you say in that report about classification. Under date of July 31, 1907, you wrote to the chief engineer:

'CLASSIFICATION.'

'This is not a serious matter. Very little classified material was moved last winter. All engineers were instructed by the chief to classify frozen material in cuttings for loose rock. Classification is, in my opinion and in the opinion of Messrs. McArthur and Hazlewood, fair, and, with the exception of one or two cuttings, there is no dispute.'—A. Yes.

Q. 'Classification should be left to the judgment of resident engineers'?—A. Yes.

Q. If they are in doubt they can consult with the division engineer. All the engineers have been instructed by me to classify liberally in loose or solid rock. Mr. McArthur has never asked me to re-classify any particular cutting or sub-contract.' Is that true?—A. That is true I think.

Q. 'Mr. McArthur has never asked me to re-classify any particular cutting or sub-contract?—A. Or sub-contract. It was general. He wanted the work classified generally.

Q. 'All engineers can provide statements of profit and loss on contracts, and this information is also in the Ottawa office on every contract since the work started'?—A. Yes.

Q. That is what you had to say in your report in answer to Inspecting Engineer Grant's report on the 31st of July last?

Mr. LENNOX.—That is part of what he had to say.

Mr. MURPHY.—As to classification ,yes.

Q. Does that report of yours correctly set forth the true state of affairs on the road on that date?—A. As far as I could judge without having any access to notes or letters.

Q. And you stated that in the opinion of Contractor McArthur and the opinion of his engineer, Mr. Hazlewood, the classification at that time was fair?—A. In discussing this question of classification with Mr. McArthur——

Q. I am asking you was that what you say in your report?—A. Yes.

Q. So at that time, according to your report, there were only one or two cuttings in dispute and you suggested they should be left to the judgment of the resident engineers?—A. Yes.

Q. That is the language of your report?—A. Well, in regard to that classification being fair it was general, general all over the line. I never could get McArthur to get down——

Q. Except in one or two cuts?—A. Yes. I tried several times to get those cuts specified.

Q. And you could not get them?—A. No.

Q. And your report states you instructed the engineers to classify liberally in loose or solid rock?—A. Yes.

Q. Those instructions then had been given before your trip to Quebec?

Mr. BARKER.—Do you state that he says to classify liberally in solid rock?

Mr. MURPHY.—In loose——

The WITNESS.—In loose.

By Mr. Murphy:

Q. In loose or solid rock. That is the fact, that is in your report?—A. Yes.

Q. And these instructions you had given before you went to Quebec?—A. Exactly.

Q. What is your answer?—A. Yes.

Q. So that you had liberal ideas about interpretation long before you visited La Tuque according to your own report?

Mr. HODGINS.—He did not say anything about interpretation.

Mr. MURPHY.—Let the witness say.

The WITNESS.—Every engineer likes to have his classificaation described as being liberal. It is a term that——

By Mr. Murphy:

Q. And you were no exception to the rule?

Mr. HODGINS.—Let him explain.—A. It does not mean that you are to have it illegally made. A lawyer might make a very striking point by the use of the word. It really means fairly.

Q. Yes, fairly?—A. I mean fairly, within due bounds.

Q. So that according to your own statement in your own language, in your own report of 31st July last?—A. Yes.

Q. All parties at that time who were interested in the matter were satisfied with your instructions and your classification, with the exception of one or two cuttings?—A. This is as far as I can boil it down to one or two sittings.

Q. Now, in the face of your report, and the answers you have given here, do you still assert that the root of the trouble between you and the commissioners was classification?—A. Yes.

Q. You do?—A. That is my opinion.

Q. That is your opinion. Well, now, as you have said in your report that everything was satisfactory, with the exception of one or two cuttings, on the 31st July last, how could your trip to Quebec, to get object lessons as you allege, have anything to do with your work at that date?—A. How do you mean?. The large increase in the classification came after that trip of Mr. Grant's.

Q. I am not talking about Mr. Grant. I am talking about your trip?—A. Presumably, if I were taken to Quebec it was to increase my ideas of classification. That is what I presume the trip was for.

Q. But this report was different a month at least, a little more than a month, after your trip to Quebec?—A. Yes.

Q. And you state in that report that there was no trouble about classification?—A. As far as I knew.

Q. As far as you knew?—A. Exactly. I had just got back. The June estimate had been in. When I came back from Quebec I signed the June estimate. That was in July. I had not seen the July estimate when it came in.

Q. When did that come in?—A. When I was down there. I had returned from writing this letter in Ottawa to Kenora and signed the July estimate. In fact I came there and signed it but had not very much time to check it over. They had checked it over before I got there.

Q. And that is what you say about that?—A. Yes, I had to go into that. After that I discovered that the classificaion was high.

Q. But you made no checking yourself?—. I started out.

Q. You started out. Now on page 6 of your letter to the 'Colonist,' produced here under the heading 'No chance of investigation':

'Before I left Kenora I said to an engineer who knew a good deal about Quebec classification that there would surely be a scandal over it; he replied that any investigation would be blocked.'

Q. Who was that engineer?—A. Mr. Grant.

Q. You said to an engineer who knew a good deal about Quebec classification, and that was Mr. Grant?

By Mr. Barker:

Q. Will you allow me to ask a question here. With reference to what you spoke of a little while ago, do I understand you to say that it was after you made that report at Ottawa and your return to Kenora that you discovered the transference of loose rock and common excavation to solid rock?—A. It was in that estimate.

Q. Take my question as I put it. Was it after you wrote that report at Ottawa?—A. Yes.

Q. And you returned to Kenora that you discovered the transference?—A. Yes.

Q. Of common excavation and loose rock by McIntosh to solid rock?—A. Yes, exactly. That letter was written on 31st July and the July estimates would come to my office about the 6th of August—any time between the 3rd and the 6th of August. They had to be in Ottawa by the 8th.

By the Chairman:

Q. When you wrote that report had you not discovered any fault in classification at all?—A. No.

Q. You wrote that report on what date?—A. On 31st July.

Q. And according to that report you had not found one single fault in the classification all over the line?—A. No. Afterwards I think there was a copy of a letter from Mr. Mann to that effect, too.

By Mr. Murphy:

Q. There was nothing to be found fault with up to that time?—A. No.

Q. Then you went over the work with Mr. Grant after making that report, did you not?—A. I came up and went over portions of the work.

Q. And you approved of it?—A. Well I went over with Mr. McIntosh this disputed piece. Mr. McIntosh used some very strong arguments in favor of this——

Q. Never mind major, what he used. I am asking you if you did not approve of it?—A. No.

Q. In August?—A. Oh, no. I cut it out of the estimate for August.

Q. I say on your trip of inspection in August?—A. No, I did not approve of it.

Q. Did you disapprove of it?—A. Yes, I told him there would have to be a re-classification.

Q. Did you put in anything to signify your disapproval?—A. I wrote to Mr. Lumsden about it, did I not? Is there not a letter produced?

Mr. Hodgins.—We have asked for the production of the letter. I asked for them all yesterday and they have not been produced yet. You remember Major Hodgins spoke particularly about one matter of drainage that he wrote about in addition to that report? I asked then to have these letters produced. I suppose you have not had them looked up.

The Witness.—I think I wrote Mr. Lumsden telling him exactly what it was and Mr. McIntosh was very anxious that it should go through. I told him it was past me and if the engineer would approve, of course, I would approve.

By Mr. Murphy:

Q. If the chief engineer would approve you would approve?—A. Yes.

Q. Do you remember having any talk with Engineer Miller about that inspection in August?—A. I don't think he was there.

Q. You don't think he was there. Where do you mean 'there'?—A. In August. His inspection in August or the inspection in July?

Q. No, in August. You did not make any inspection in July. It was only after Grant's report starting you up that you began to inspect?

Mr. Hodgins.—That is not the fact.

Mr. Murphy.—That is the fact.

The Witness.—That is the only time it became necessary to inspect.

Mr. Lennox.—In consequence of having discovered wrong transferences in the estimates.

By Mr. Murphy:

Q. This discovery that members of the committee have been speaking about, Major Hodgins, was made by you in September, was it not?—A. Which discovery?

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Q. This transference as it is termed?—A. Why, it is apparent on the July estimate because it had that statement from Mr.——

Q. Yes, but your dealing with it took place in September?—A. It took place, I struck it out of the August estimate.

Q. You had approved of 't in August?—A. Passed it in the July estimate.

Q. Yes, in August?—A. Yes.

Q. And then you disapproved in September?—A. Well, put it this way; I passed it in the July estimate.

Q. In August?—A. In the month of August, as soon as I returned from Ottawa—

Q. Yes?—A. I got up just in time to sign them, and when the August estimates came round I struck it out in September. It was probably the 2nd or 3rd of September. As soon as it came in I had seen it.

Q. You also had disputes with McIntosh before that?—A. On the work. I said I would not let that sort of thing go.

Q. Do you know what disposal has been made of that matter which you and he disputed about?—A. This?

Q. This classification?—A. No.

Q. Do you know it has been referred and adjudicated on?—A. No.

Q. You don't know anything about that. Well, we will get that from somebody else. You remember meeting your successor, Mr. Poulin, at Kenora several times after your resignation, don't you?—A. Yes.

Q. Before leaving that question of the work on McIntosh's division, you asked McIntosh to sign a statement against Grant, did you not?—A. No.

Q. Well, that request was made to McIntosh for you, was it not?—A. To sign a statement against Grant?

Q. Yes, about Grant's report?—A. No. The chief engineer had asked me to get answers to questions on certain charges.

Q. Who framed the questions?—A. I framed them.

Q. Exactly?—A. And he framed some of them.

Q. You framed most of them?—A. Exactly. Grant wrote most of the report.

Q. And you did the framing of the questions?—A. You bet.

Q. Exactly?—A. Who would I ask to do the framing? Grant?

Q. I am not in the witness box, I cannot tell you. I am not a framer. You sent this statement out for McIntosh's signature, did you not, and McIntosh refused?—A. No, he did not.

Q. Well, did he sign it?—A. No. I read the questions to him, and he answered them and I wrote them down.

Q. Yes?—A. And coming away from his house he asked me if I would not give it back to him.

Q. Yes?—A. I forget now whether he signed it or not.

Q. Well did he sign it?—A. No, I read the questions to him and he answered them and I wrote them down.

Q. Yes?—A. And coming away from his house he asked me if I would not give it back to him.

Q. Yes?—A. I forget now whether he signed it or not.

Q. You were his superior at that time?—A. He asked if he might take it back and re-write it. He had a good many confidential talks with Mr. Grant and he did not want to put in anything that was unnecessary.

Q. And just at that time there was a question——

Mr. Hodgins.—Get the history of the document.

A. He said he would send me the document, but he never did; the other engineers sent them.

By Mr. Murphy:

Q. He never did, and the other engineers sent them. You have no fault to find

with the other engineers, but McIntosh is the one bad man?—A. I do not say he is the one bad man.

Q. But he is one?—A. No, McIntosh is all right.

Q. I am glad to hear you say that, and the commissioners will be glad?—A. I know McIntosh pretty well, he worked for me for three years, and there is no trouble between McIntosh and me. I say McIntosh was being influenced by Mr. Grant.

Q. How do you reconcile that with your criticism of what he was doing?—A. He was mistaken.

Q. Certainly he was mistaken?—A. He was my subordinate, but he was mistaken and not only that, but he was my friend.

Q. And there was the question of promotion with which you had something to do?—A. Yes, I had recommended him.

Q. And did not this matter of promotion come up in regard to this statement that you wanted him to sign?—A. No.

Q. I am told that it did?—A. The only question that would interfere between McIntosh and myself in that question of promotion would be the action he had taken in regard to that classification. Up to the time Mr. Grant was there I approved of Mr. McIntosh's classification, as far as I knew of it; he did not require any instructions from me, and when I recommended his appointment as assistant district engineer I made it on the assurance that he would be a good man for that position.

Q. Just at that particular time wasn't there a little friction between you and McIntosh?—A. Not very much.

Q. Not very much you say?—A. Yes.

Q. But was there any friction? Your relations were a little strained?—A. No, they were all right.

Q. In any event, this promotion of his did come up for discussion at the time you wanted him to sign that statement?—A. I do not remember whether it did or not. McIntosh knows this, that if he classified the way I wanted him to classify, the way I interpreted the specification, and the way the other engineers interpreted the specification, it would be satisfactory.

Q. While you were there, did you ever issue any instructions——

Mr. LENNOX.—Let the witness finish.

A. That was the only thing that stood between McIntosh and his promotion.

By Mr. Murphy:

Q. Did you ever issue any written interpretations of the specifications to your engineers?—A. Any written interpretation?

Q. Yes, did you ever send them anything in writing giving them your interpretation of the specifications?—A. I do not remember.

Q. Did you, as a matter of fact?—A. I did not.

Q. You never did?—A. No.

Q. Did you ever give your engineers instructions to classify according to the Quebec classifications?—A. No.

Q. If you did not, who could have done that?—A. Mr. Grant.

Q. Do you assert that Mr. Grant did that?—A. I never heard him.

Q. Then you cannot assert it?—A. No.

The Committee adjourned.

WEDNESDAY, June 3, 1908.

The committee met at 11 o'clock, a.m.

The cross-examination of Major Hodgins continued.

By Mr. Murphy:

Q. In your examination-in-chief, major, and again in your cross-examination,

you stated that you adhered to the statements contained in your letter to the *Colonist* of April 16. Is that correct?—A. Yes.

Q. And I understood you to say that you did not adhere to the interview with you that was published in the *Colonist* of April 18 or 19?—A. No.

Q. As I recall your evidence you also said that the only person whom you met or knew in connection with that paper was the reporter who interviewed you?—A. That was at the time of the interview.

Q. Up to the time of the interview?—A. Up to the time of the interview.

Q. But you later on, after that interview, became acquainted with some other member of the staff?—A. Yes.

Q. Who was that?—A. I forget what his name was. I think it was the editor.

Q. The editor of the *Colonist*?—A. Yes.

Q. Did you have an interview with him on the subject of the interview with you that had been published in his paper?—A. No, except to tell him that the reporter had made a great many mistakes and used his own wording. As I said before, the reporter interviewed me and put down a few items that I said and then he wrote, I should think, about two columns.

Q. Yes?—A. Putting it——

Q. That is after the manner of reporters, I presume?—A. Well, I spoke to him afterwards and said he made a great many mistakes and mis-quoted me and put in his own opinions, and I was not responsible for them.

Q. To whom did you tell that?—A. The reporter, Moore.

Q. To Reporter Moore?—A. Yes.

Q. Well, is it not a fact that you saw the interview before it appeared in print?—A. No, I did not.

Q. Well, you had the paper with you, or the reporter who interviewed you had the paper with him when he interviewed you later on about the previous interview?—A. No.

Q. Did he not?—A. No.

Q. Well, I am informed that you had an interview about the correctness of the statements attributed to you, and that you objected to only one of them?—A. I objected to the whole interview.

Q. You objected to the whole interview?—A. Yes. In the first place, I have forgotten exactly the wording of the first paragraph. I said, 'I have nothing to do with it,' and he admitted that I had not.

Q. You are speaking now of the reporter?—A. Yes.

Q. Well, who fixed up that first paragraph?—A. I don't know.

Q. Did he say?—A. He did not say.

Q. What does this first paragraph contain?—A. I don't remember just now. You can look it up in the paper.

Q. You don't remember at the moment?—A. No.

Mr. MACDONALD.—I saw a statement in the Victoria *Colonist* of May 26 regarding this matter. Has your attention been called to that?

Mr. MURPHY.—Yes.

By Mr. Murphy:

Q. What were the items you admitted in the interview, major?—A. I don't think I would admit any items there excepting—I have not got the interview here. I cannot remember the interview just now. Will you give it to me?

Q. You cannot remember the interview at present. Well, my attention has been called to an article in the *Colonist* of May 26 dealing with the evidence that you gave here disclaiming responsibility for that interview and this article asserts that you had an opportunity of correcting any mis-statements that were in the editorial, or in this interview rather?—A. I would like to see that.

Q. And that you objected to only one?—A. No, I objected to the whole inter-

view. They corrected it. The main thing that they corrected the following day I think was a mis-statement in regard to yards which were given as feet or something or other of that kind. I forget how the wording of that interview was. It was with reference to the McArthur letter, I think.

Q. Well, it is of importance to know, major, how much or how little of this interview you are now prepared to stand by, because it affects the cross-examination ?—A. I am not prepared to be responsible for the interview at all. As I say, if a reporter interviews you and takes down half a dozen sentences, and his notes certainly were not that long (illustrating by a gesture) and writes up two columns you cannot hold me responsible for it. Part of the interview, I might tell you, the reporter was trying to find out what an engineer has to do, what he does this, that and the other—in fact I was giving him more or less of a lecture on engineering. There was a whole lot of questions he was working up and he got hopelessly mixed up in the thing.

Q. From your answers this morning you would not like to be responsible for other articles that are written nearer home ?—A. No.

Q. On the same subject ?—A. No.

Q. I direct your attention to an editorial appearing in the Victoria *Daily Colonist* of Tuesday, May 26, which I think it is only fair to you that I should read. It is headed as follows, and reads—I may say that I do not intend to put this editorial in —as follows (reads) :—

'A MISREPRESENTATION.

'We find the following in the Manitoba *Free Press* :—

'Major Hodgins said he stood by the charges made in his letter to the Victoria *Colonist,* but not by the interview in that paper. The reporter had taken down some notes on a small piece of paper and extended them to two columns.

'This must surely be a case of misrepresentation, for Major Hodgins would hardly repudiate the interview published in the *Colonist.* There were two interviews and the second was given after the first was published. After he had given his first interview Major Hodgins directed the attention of the *Colonist* reporter to the following passage, which formed a part of it :—

'Over large stretches of construction the money thus fraudulently paid will amount to millions, and if Major Hodgins' classification were correct, the railway commissioners already contemplate paying the contractor in question, J. D. McArthur, $4,000,000 more than he is entitled to on 250 miles of road, and how much more he will actually receive should the monthly estimates of the work done exceed the present revised estimates of the eventual cost and the present management remain unchanged, cannot even be guessed at. The possibilities are unlimited, and it must be remembered that some 1,800 miles of road is being built in the same generous fashion.

I made the estimate in the usual way before the contract was called for, allowing everywhere a most liberal margin so as to be on the safe side. Everything that I was uncertain about I put in as solid rock. I took no chances of being under the mark, and made my estimates generously. These estimates amounted to $13,000,000. Afterwards, owing to a few changes in the way of shortening certain sections of the line, the figures were reduced to below $12,000,000. Now comes the announcement, startling to those who do not know what is going on, that the estimates have been increased to $16,000,000. As the change in location cheapened the line, and only affected small portions of it, all this large increase comes from classifying as solid rock what I classified as loose rock, or as loose rock what I considered common excavation. And I repeat that I was as generous in my estimates as I honestly could be, but every engineer knows that there is a line between generosity and fraud in such matters. I do not care to cross it.

On this statement appearing in the *Colonist,* Major Hodgins took exception to it as being not quite what he meant to say, and in the second interview he made the following explanation :—

APPENDIX No. 5

Speaking of the Latuque cutting, which by typographical error 150,000 cubic feet, instead of cubic yards, of material was stated to have been taken, the Major said that he had been slightly misunderstood. That cutting consisted of loose rock mixed up in sand and earth, and it was because many of the loose rocks consisted of large boulders that he had said that possibly a classification of 40 per cent solid rock might be allowed. He also stated that he does not wish to be quoted as stating as a fact that the increased estimates announced by J. D. McArthur are due to increased classification, as he has not had the opportunity of seeing those estimates. But he has shown that the increase was not due to change in location, as those changes reduced the cost of the road by over a million. As he was asked to resign because he refused to permit what he considered excessive classification, and immediately thereafter the estimates are announced to have been increased, he now asks:—

'Does all this large increase come from increased classification?'

And unless and until the increase is explained by an inquiry all unbiassed persons who know Major Hodgins and have heard his story will believe that it does.

On the day after this interview Major Hodgins saw the reporter and expressed his entire satisfaction with what had been published. The fact that he only made one correction of what was stated in his first interview, and none of any part of the second interview shows that he was correctly reported. After the publication of the second interview, Major Hodgins called upon the editor of the *Colonist* and discussed the subject-matter of his interviews, producing some letters in corroboration of his statements. He was questioned at some length regarding the interviews, but did not in any respect whatever express disapproval of what he had been represented as saying, but on the contrary, left the impression that the case had been very moderately stated. Under these circumstances, we feel that the Ottawa correspondent of the *Free Press* has not correctly reported what Major Hodgins said in regard to the interviews. The *Colonist* wishes to have it distinctly understood that what Major Hodgins was represented in its columns as saying was either said by him exactly as reported, or was, after publication, accepted by him without a word of qualification, except as above stated. We were exceedingly careful not to go a step further, either in our news columns or editorial columns, than the specific statements of Major Hodgins warranted, and for this reason, we repeat that the *Free Press* must have been misinformed. We cannot think it possible that Major Hodgins would repudiate at Ottawa statements made by him and published in this paper.'

I would ask you now, Major, what have you to say with regard to the statements of the newspaper concerning your attitude towards this interview the day after it was published?—A. Just what I said before.

Mr. HODGINS.—What statement?

Mr. MURPHY.—The statement that he found no fault in it except in this one particular.

Mr. BARKER.—Give it specifically.

Mr. MURPHY.—I will let the Major make his own statement.

The WITNESS.—I did find fault with it and I don't think I should be responsible for the conclusions and words of other men.

Mr. CARVELL.—That is a fair answer.

The WITNESS.—Unless a reporter takes down your statements in shorthand he can put all sorts of things into an interview.

By Mr. Murphy:

Q. It is mentioned here that on the day you called upon the editor you produced some letters in corroboration of your statements. What letters were those?—A. Notes about the classification.

Q. Your notes about the classification. Do you mean the notes that Heaman

had given you?—A. Those notes I took down from Heaman and also the notes on that work that McIntosh changed.

Q. The editorial refers to letters?—A. Some of my own letters.

Q. Your own letters. What letters were those?—A. I cannot remember just now. They referred to the quantities that had been changed.

Q. To whom were they written?—A. I think some were copies of letters to Mr. Lumsden.

Q. Some that you showed the editor were copies of letters that you had written to Mr. Lumsden?—A. I think so.

Q. Did you not have the letters to Mr. Heaman with you that day?—A. Possibly.

Q. Well, it is only a short time ago, Major, surely you can recall whether you had or had not? It is less than two months?—A. I possibly had.

Q. Now had you shown those letters of Mr. Heaman to any other person prior to these articles in the 'Colonist'?—A. I don't think I showed them. There was a lot of private correspondence in those letters. I may have read one or two extracts or something of that kind.

Q. To whom did you read the contracts?

Mr. HODGINS.—I submit, Mr. Chairman, that is of no consequence. He may have read them to a thousand people. You have ruled that he is bound to give the contents of them and he has stated the contents as far as he could. The fact that he showed them to A, B, or C is surely not a matter to be inquired into?

Mr. MURPHY.—There is an issue now as between the Major and the newspaper.

Mr. HODGINS.—My learned friend is bound to accept the Major's statement. He has read an editorial which he proposes not to put in and having done that he is bound to accept the witness' answer that it is not a correct statement.

Mr. MACDONALD.—I think the editorial is in. Having been read, it forms a part of the record.

Mr. HODGINS.—My learned friend said he was not going to put it in. Had he not done so I should have objected. He has no right to put in a statement, and which goes upon the record, which he does not propose to prove. I don't think he can put in the article and he is bound to accept the witness' answer.

Mr. MACDONALD.—I think that the article having been read by Mr. Murphy and a question having been put in relation to it, it is now on the Minutes.

The CHAIRMAN.—What is your question, Mr. Murphy?

Mr. MURPHY.—The point is this: It is of very great importance, as the committee will see, to ascertain exactly what Major Hodgins does adhere to with regard to the statements made in this newspaper, the *Colonist,* and it was because of the issue that has arisen between the Major and the *Colonist* with regard to the correctness of the second article that I addressed my question to him.

The CHAIRMAN.—What is your question? You asked him to what persons he showed his letters, did you not?

Mr. MURPHY.—I was asking about the letters he had shown the editor of the *Colonist,* and then I asked him to what persons he may have read extracts.

The CHAIRMAN.—Don't you think it is a little too general to ask to what persons he may have read extracts? Don't you think you ought to specify any persons in particular to whom he may have read extracts?

Mr. CARVELL.—Is it not a dangerous precedent to ask this witness such a question? Supposing you ask to whom he showed letters or extracts, the next thing would be, 'What did you read?' And then people would be brought from British Columbia to say whether the witness was telling the truth or not.

Mr. BARKER.—It has nothing to do with this inquiry.

Mr. MACDONALD.—I think your question as to whom he showed the letters is not permissible, but it is important that we should find out clearly, seeing that an issue has been raised between this newspaper in which the original article appeared and

Major Hodgins, just what the Major stands by. I think that is the only point of importance.

Mr. MURPHY.—That is what I have been asking.

Mr. HODGINS. Mr. Murphy said that he did not intend to put the editorial in, and I think, therefore, it should not go on the record.

Mr. MURPHY.—I had not the newspaper at the time I said that.

Mr. HODGINS.—I think it would be very unfair to put in an editorial as evidence to show the Major is mistaken. The only fair way, if it is intended to contradict him, is to call the party who has written it.

Mr. CARVELL.—I think Mr. Murphy has treated the witness very fairly. He has read the whole of the editorial and asked him whether it was true or not.

Mr. HODGINS.—I quite agree with that, but it was prefaced by a statement from Mr. Murphy that he did not propose to put the editorial in or use it as evidence.

Mr. MURPHY.—I don't think I said that.

Mr. HODGINS.—I don't think you said that, but that was the effect of it.

Mr. MACDONALD.—Having read the editorial to the witness and put a question upon it forms part of the record.

Mr. HODGINS.—I did not object at the time because Mr. Murphy said, 'I am not putting it in.'

Mr. MURPHY.—I read the editorial and followed it up by a question.

The CHAIRMAN.—I think the editorial must form part of the record and be taken into the evidence when it has been read.

Mr. HODGINS. I think my learned friend has got an advantage, then, that he should not have got. I presume it will be taken down that I objected to this going in as evidence, and that my objection shall be noted? I was not aware that newspapers ever admitted in print that they were wrong, and I suppose that this one does not.

The WITNESS.—I might say that the reporter during the interview asked me a whole lot of things. I have forgotten exactly what questions he asked me, but he said 'Is this so and that so.' I said, 'It is impossible for me to know. You must not put down anything in this interview that I have not said.' When I saw the interview I saw the thing was so hopelessly mixed up there was no possible way of explaining it. I asked him to make a correction, and he made a correction which is almost as bad as the other. Then I stopped.

By Mr. Murphy:

Q. Are you now speaking of the correction in the editorial which I have read this morning?—A. The wording of it, the whole thing. It was not my words nor my thoughts.

Q. So as not to delay proceedings at this stage I would ask you at the first recess to read the interview as published in the 'Colonist,' it is here among the papers, so that I can ask you when we meet again after the adjournment, what part of this you do admit or what part of it you repudiate?—A. Principally the wording of the whole thing.

Q. In your examination in chief, and also in your cross-examination, you stated, as you have told us this morning, that the only person with whom you had any intercourse, that is the only person connected with the paper with whom you had intercourse was the reporter; by that I understand you to mean to say he was the only person you knew prior to the publication of the editorial?—A. That is it.

Q. You have admitted that you afterwards met the editor; well now, you have heard this editorial read, it is taken from the 'Colonist' of the 26th of May, do you admit, or what have you to say, about the statements in it, are they correct or not?

Mr. HODGINS objected to somebody reading a newspaper editorial and witness being asked if he agreed with it.

The CHAIRMAN.—He has already said he does not agree, he has made that answer before.

Mr. BARKER.—You might almost take any newspaper in the country and ask the same question.

Mr. MACDONALD.—That is not the point, Major Hodgins went to this newspaper for the purpose of making certain charges——

Mr. BARKER.—Is that correct?

Mr. MACDONALD.—Certainly, he wrote a letter to the newspaper and followed it up with an interview with the newspaper.

WITNESS.—They came and interviewed me.

Mr. MACDONALD.—He wasn't interviewed against his will.

Mr. BARKER.—Is it accurately stated?

Mr. MACDONALD.—These newspaper fellows may be pretty bad, but they have not yet discovered a way by which they can make a man say what he does not want to say. The facts seem to be that having gone to this newspaper to start a discussion on this question, and it was because of these newspaper articles that this inquiry was brought about; those articles and this interview were referred to us, among other things, to investigate. When that newspaper makes a definite statement in regard to what was said or what was not said, I think the committee would be taking a peculiar course if they did not want to know what Mr. Hodgins had to say about it.

Mr. HODGINS.—Surely you will not ask us to answer for all that the newspapers have said about it? I take the issue that that is not something that can be read to the committee at all, it is not yet proved that this was ever published out there.

Mr. BARKER.—Is this the editorial of the 26th of May?

Mr. HODGINS.—Yes, and it has never been proved that it was published.

Mr. BARKER.—This looks as if the newspaperman was trying to argue that he is right and the other man wrong.

Mr. MURPHY.—I want to find out what took place on the day that the interview took place, the day he saw them; I want to find out whether the newspaperman's or Major Hodgins' version is correct.

By Mr. Murphy:

Q. When you went and saw the editor and had this discussion with him about the article that had appeared previously in his paper?—A. Yes.

Q. The editor states in this editorial of the 26th of May that you objected to only one particular?—A. I objected to the whole thing.

Q. That is what I want to know, you object to the whole thing. Very well; you stated, Major, that certain changes that you made in the line reduced the cost from your original estimate of $13,000,000 to about $11,660,000?—A. Yes.

Q. Did those changes and the reductions of which you speak reduce the total amount of Mr. McArthur's contract that is, his total plans?—A. Yes, his contract was $13,000,000, and these changes and alterations reduced it down to eleven million six hundred and odd thousand dollars.

Q. That is by some method of calculation employed by you?—A. By the method of calculation employed by the Transcontinental Railway. They told me just what to do; I had the values or the totals for each item and we made these calculations in the district office; they were sent to the Chief Engineer's office and they were checked there, and they were given to the Grand Trunk Pacific.

Q. And who got out the quantities in the first place?—A. Sometimes the quantities would be taken out by the engineers who ran the line and sometimes they would not, but they would all be checked over in the district office by various men.

By Mr. Carvell :

Q. Permit me to ask you one question at this stage—Who would be responsible for the classification of that estimate, the district office or the men on the line?—A. The men on the line; they would put on their profile of a rock cutting, 'probable

rock'; they used originally to put 'rock,' but the Chief Engineer gave orders that they were to put 'probable rock' or 'probable earth,' as the case may be; all these details came in from the men on the line.

Mr. BARKER.—Mr. Chairman, are these papers here? We should have them?

Mr. MURPHY.—They are all here.

A. These changes will be on the plans; as soon as a change is made it is sent to the district office by the engineer who runs the line, and the plans are gone over in the district office; they are signed by the engineer who makes them and by the district engineer; then they are sent down to the Chief Engineer, and before the change or alteration is adopted, it has to be formally sanctioned by the Chief Engineer.

By Mr. Murphy:

Q. You are telling us what is done in practice all right, but what I asked you, Major, was, Who got out the quantities affecting this reduction in cost of the line?—A. They were taken out in the office; they were not taken out in the office, but checked in the office.

Q. Do you know, as a matter of fact, whether they were or not?—A. Some of the engineers would take out their quantities, I cannot say from memory which one did it.

Q. Can you tell us from memory anything definite about it?—A. I would have to look over the plan; there are 250 miles, and various lines were run.

Q. You have told us before that you could not indicate any particular part of the line on which that saving was effected?—A. Well, there are so many changes and alterations; some were suggested and we found out they would not accept them, and we would take the original line; it is a pretty hard thing to go over 250 miles and remember all the different changes that were made or suggested. All this data is over in the Chief Engineer's office, and the actual plans upon which that 11,660,000 total is based can be produced from the Chief Engineer's office.

Q. I am not asking you as to the data, but rather as to the individuals who were responsible for the quantities?—. They would be taken out by one man and checked by another; sometimes it would be by a draftsman and sometimes Mr. Heaman and sometimes Mr. Ruddock. They were taken out not from the cross sections, but from the profiles.

Q. My question and your answers have reference to what you call your revised estimate I understand ?—A. Quantities of every item, prairie or anything else.

Q. The original estimate that you made, who took the quantities out with regard to that ?—A. The original estimate of $13,000,000 ?

Q. Yes, on which tenders were asked ?—A. That was taken out first of all in the chief engineer's office. When that was taken out I did not know the McArthur prices, I had put in an estimate on my own prices before that, and those prices were very, very near McArthur's ; when they got the tenders in they reduced all those quantities, the detailed quantities to McArthur's prices, and to the prices of the other contractors as far as I know.

Q. But the quantities would be the same in both ?—A. The quantities would be the same in both.

Q. That is what I am asking you, not in reference to the prices.

By Mr. Carvell :

Q. I understood you to ask who was responsible for the quantities on which the $13,000,000 estimate was based and I do not think we have an answer to that yet ?—A. The $13,000,000 estimate ?

Q. In the $13,000,00 estimate. I presume that was made on quantities furnished him ?—A. That was taken out in the chief engineer's office, he got the various tenders when they came in.

Q. But where would the chief engineer's office get the data upon which to figure it out ?—A. From the plans that I sent down and the data I sent down. I took an estimate out of the line and put my own prices. I got various prices from people in the district and sometimes from the contractors ; that was in the chief engineer's office before tenders were asked for. Then tenders were advertised and they got in the prices. McArthur's happened to be the lowest, and on that data they worked out the estimate in the chief engineer's office.

Q. But from the data you sent down previously?—A. Yes.

By Mr. Murphy :

Q. Where did you get that data that you had previously sent down ?—A. From the plans.

Q. From the plans in your office ?—A. In my office ; we worked it out in great detail, every item of this can be produced, they are enormous sheets, it was a very close estimate.

Mr. BARKER.—I think, for the information of the committee, and to enable us to follow this when these matters are being discussed in this way, the plans should be put in evidence so that we can inspect them.

Mr. MURPHY.—I will do that, we are just going over the evidence now on this one point.

By Mr. Murphy :

Q. In your examination in chief, Major, you said in answer to my learned friend, that if the wasting which was referred to in one of the letters, forming Exhibit 2*a* was done deliberately and against the engineer's order, it should not be paid for ; do you remember expressing that opinion ?—A. Yes.

Q. You did not mean that that had actually occurred on the McArthur contract ? —A. Well, wasting, you cannot say anything has been wasted until afterwards. If rock has been blown out—the engineer gives general orders that no waste shall be allowed, occasionally occasions occur where waste could not be avoided.

Q. Well, then, as I understand you——A. If you come to a conclusion, after seeing waste on the side of the right of way or on the right of way—the engineer has to decide then whether it has been delivered or unavoidable.

Q. I understand you now, you are just laying down a general principle?—A. A general principle.

Q. That should be applied in any work?—A. Yes.

Mr. HODGINS.—Are you intending by that to show that he is now suggesting that it has not occurred on McArthur's work ?

Mr. MURPHY.—I asked him whether in his reference to the waste that he meant it had actually occurred on the McArthur contract ?

Mr. HODGINS.—I do not think you made it at all clear to him that you had reference to McArthur's contract; you laid it down as a general principle.

The WITNESS.—It is a question I did not quite understand. The question as you put it was with reference to wasting against the engineer's orders, and I explained that all deliberate waste could be put down as against the engineer's orders.

By Mr. Murphy :

Q. I am asking you if your statement in your examination in chief had reference to any instance of that kind on McArthur's contract?—A. There are several instances of what I would call deliberate waste.

Q. But had your answer reference to any of these when you gave it to my learned friend ?—A. I presume it had.

Mr. HODGINS.—Would you mind reading it to him ? Where do you find it. ?

Mr. MURPHY.—Exhibit 2 (*a*).

By Mr. Murphy :

Q. At page 110 of your evidence you were asked:

'What do you mean by wasting? Is that literally throwing on one side?—A. Yes. Blasting out rock and borrowing to make up the embankment.

'Q. Is that more expensive?—A. Yes, you pay for two yards and only get one if a cut is wasted in order to get it done quickly. You certainly pay them for it, and if it is done deliberately against the engineer's orders they should not be paid for it, but it has to be proved to be a deliberate waste.'

That is what you said, and I am asking you if that had reference to any particular instance on the McArthur work?—A. Well, there are several places that I remember where I saw waste, and I think I said that in some cases the engineers had not deducted it but warned the contractor that if there was a repetition of that they would condemn it. Of course if it was eventually found that that amount of material had been required to make up embankments a borrow of some kind would have to be made, but that cannot be told until the work is finished.

Mr. BARKER.—It will be better, I think, if the witness will say, in a few words, what is meant by 'waste' and 'borrow,' because lots of people do not understand it.

The WITNESS.—I am not in a position to say now with regard to the evidence of waste that I saw, that the material was eventually required, or has been required in embankments; that can only be ascertained by referring to the quantities.

Mr. CARVELL.—Mr. Barker's suggestion is, I think, a very good one, that you should state now, major, what you mean by 'waste' and 'borrow,' and you may also go further and state the conditions under which you say there might be wasting.

Mr. MACDONALD.—Just so that we will know what it means.

The WITNESS.—In all cases a cutting is supposed, the grade in a cutting is supposed to be adjusted in such a manner that the amount that comes out of the cutting will make the neighbouring fill. Until that fill is made you do not know, and in the case of rock cuts,—there are so many cubic yards of rock in place in the cut, and when that is blasted it is broken up and fills a much larger space than when in place. For the purposes of calculation just now, we will take it that a yard of rock in the cutting will be equal to a yard and a half of rock in the embankment; in some cases it goes more; if the boulders come out in large or small pieces, it varies in that proportion, so that it is more or less a guess to say that a yard of rock in place makes a yard and a half in the bank, still we have to make some basis of calculation.

Mr. MACDONALD.—Just describe the use of waste.

The WITNESS.—Some engineers think that a yard of rock in the cut makes two yards in the bank. Whatever figure it is, we take a yard and a half on the Transcontinental, and our calculation is based on that. If the contractor blasts away a large number of yards out of the cutting it is natural to suppose that that bank would be minus that number of yards.

Mr. HODGINS.—That fill?

The WITNESS.—That fill would lack that amount of rock, on the supposition that the cut is to make a certain fill.

By Mr. Carvell:

Q. And if there is a shortage you have to get your material elsewhere, and you call that 'borrowing'?—A. That is borrowing. Then it is a question what class of material is best to borrow. If you have a rock bank with a great many voids in it—the cheapest borrow would be earth, but if you try to put earth on a bank where there are many voids, into a rock bank, you will keep on pouring in earth and it will go into the voids between the rock and settle, and the first rain that comes will wash it all away; so you have to borrow rock, or you should borrow rock to make up a rock bank. Of course it is a question that has to be settled by the engineer on the ground as to what is the nearest and best borrow.

By Mr. Murphy:

Q. Then when you visited on the work you saw the contractor was blasting and

the rock was going over the side of the bank?—A. Away off of the right of way, 200 or 300 feet.

Q. And not being used, and if it were found later on that that rock was actually required to fill up the neighbouring fill you would call that wasting?—A. Well, you call it wasting anyway, because you do not like to see a large amount of rock thrown away before you know whether it is necessary or not. If there is an excess of material in the cutting it should be used to widen the bank. In some cases on the McArthur contract I have seen large masses of rock away in the timber, clear of everything, away off the right of way.

By Mr. Hodgins:

Q. How wide is the right of way?—A. Fifty feet on each side of the centre.

By Mr. Macdonald:

Q. That would be the result of blasting, I suppose?—A. The result of heavy blasting, so that at any time you do not like to see wasting. The contractors like to put a heavy charge in and get rid of the rock as soon as possible, because they do not have to handle it again.

Q. That occurs everywhere, doesn't it?—A. They will always do it if they can.

By the Chairman:

Q. I think you have answered that question before in your examination in chief? —A. I think so.

Q. On page 110 of the evidence, you were asked:

'Q. What do you mean by wasting? Is that literally throwing on one side?—A. Yes. Blasting out rock and borrowing to make up the embankment.

'Q. Is that more expensive?—A. Yes, you pay for two yards and only get one if a cut is wasted in order to get it done quickly.'

By Mr. Barker:

Q. Wasting does not apply to rock alone?—A. No, sir.

Q. Any excavation that can be used in a bank is wasted if it is not used?—A. Yes, but it is easier to waste rock deliberately than the other.

Q. In two or three words tell us what is 'borrow'?—A. Borrow? Well, as I said before, the quantities in the cut are supposed to make up the fill, that is when you are so located—or at least you try to make your cuts equal your fills; supposing a cut does not equal a fill, we use the term 'borrow,' we have to borrow from somewhere else that which does not come out of the cut.

Q. It means earth or stone that does not come out of the excavation?—A. It is all excavated, but it does not come out of the cut adjoining the fill, or you may widen the cut in order to obtain the material. Another term which is given to 'borrow' is on prairie work, where you make your fill from ditches on either side, some people call that borrow; I suppose that is to distinguish it from the material you take out of the cut. I think—is there a specification here? There is a reference to waste in the specification which I think will explain it very easily, it is made by the chief engineer.

Mr. Macdonald.—Never mind, it was only an explanation of the terms for our own information that we wanted, I do not see that we need take up time by going into the technical definition of that.

By Mr. Murphy:

Q. The committee are satisfied with the definition you have given, Major?—A. All right.

Q. In answer to my learned friend you said that some time in July, 1907, you thought you had asked once or twice for another assistant district engineer?—A. In June.

Q. About June, 1907, you thought you had asked once or twice for another assistant district engineer?—A. I did ask.

Q. When did you ask?—A. I think I applied to Mr. Lumsden or Mr. Young.

Q. Was that by letter or verbally?—A. I do not remember—by letter, I fancy.

Q. You are not clear whether it was by letter or verbally?—A. By letter.

Q. You think it was by letter?—A. I think so.

Q. To whom, now?—A. To Mr. Lumsden.

Q. What action was taken in regard to that?—A. I do not think any action was taken. Mr. Young told me—I think I recommended Mr. McIntosh, and Mr. Young told me, he and Mr. Lumsden came down to settle up some question of overbreak with the contractor, and I think he told me that McIntosh did not want to accept it; he wanted to stay out on his division.

Q. Who told you that?—A. Mr. Young, and McIntosh afterwards told me the same thing; he said he hadn't had enough experience, and he wanted to stay out on his division and get experience in this heavy work.

Q. You stated, as a reason for making that request that the work at the time was more than you could handle?—A. Yes, it was pretty heavy.

Q. Did the subsequent appointment of an inspecting engineer have anything to do with your request?—A. It could not relieve the work in my office.

Q. No, it could not relieve the work in your office. Now you have told us everything was going on right until about July, 1907, when the Grand Trunk Pacific inspector began to object to classification, and that you agreed with him, do you remember that?—A. Yes.

Q. Who was the inspector?—A. Mr. Mann.

Q. And what was the objection he then made?—A. I am trying to remember.

Q. Was it in writing?—A. I do not think he wrote, I would not be certain, but a reference to the records would show it if there is any letter.

Q. You did not mention in your examination in chief that he wrote, and that is why I am asking you. I want to know what the objections were, have you any recollection of them?—A. I remember that he did object to classification.

Q. What did he say?—A. That it was high, that the classification on the first three divisions we agreed was fair.

Q. You and Mr. Mann agreed that the classification was fair on the first three divisions?—A. Yes.

Q. What about the others?—A. He spoke about high classification on the other two divisions—you see this was in July you are referring to.

Q. Yes, I think it was in July, 1907—June or July?—A. July I think. I was in Kenora very little in June.

Q. What you say was reported at page 111 of the evidence, (reads): 'Everything was going all right until I think the month of July, 1907, then the Grand Trunk inspector on the line began to object to the classification. I agreed with him.'—A. Yes.

Q. And upon what point did you agree with him?—A. There was a case, in one case, where an engineer had put in some—I forget how many yards—as excavation and cofferdams—

Q. Who was the engineer?—A. It was in Richan's division, I have forgotten the resident engineer's name, but it was on Richan's division.

Q. You have forgotten the name of the resident engineer?—A. I would not be certain as to the name, but an item appeared of 'excavation and cofferdams' on Richan's division, and I knew perfectly well there had been no cofferdam,—at $3.00 per yard, I think it was, in the estimate, and I looked up the profile and saw that a creek diversion was there and this creek diversion was through a swamp. He could not possibly put in a cofferdam—put in the cofferdam required. I called Richan and asked him what it meant and he said he did not know. I asked him if there was a

cofferdam there and he said he did not know. I asked him 'what did you allow this in the estimates for'? and I made him cut it out.

Q. How did you return it then?—A. I have forgotten. I told Richan to take his estimates away and change it. He had brought them in.

Q. Was that changed into excavation and foundation?—A. Possibly. I don't know.

Q. Do you remember?—A. I don't remember. The estimate would show whatever it was changed in. I told Richan to make it right. There were one or two other places. I have forgotten exactly what the conversation was.

Q. In your evidence you say 'Mann objected to the classification and I agreed with him.' I want to know upon what point or points there was an agreement between you and Mr. Mann?—A. Well, I remember—that would be in August. There were one or two points I cannot just remember exactly.

Q. You cannot remember?—A. He had been out over the line and was fresh from there, and told me he objected to some classifications and——

Q. You discussed them and then agreed with him?—A. Yes.

Q. And you had been out over the line?—A. I was to go out over the line and look at it. There were one or two points that I knew about, and so did Mann.

Q. Well, this discussion took place in your office?—A. Yes.

Q. And you agreed with him without having yourself been over the line?—A. Ah, agreed with him in what we both knew, and I said I would go out over the line and look it over.

Q. Your evidence gives the impression that whatever the objections were you agreed they were well founded, although you had not been out over the line?—A. I had been over the line.

Q. But you had not been inspecting these parts that he objected to?

Mr. HODGINS.—How do you know that?

A. I had been over McIntosh's.

Q. Do any of these objections apply to McIntosh's?—A. Yes.

Q. Why did you not tell me that when I asked you what these points were?—A. It is pretty hard to remember these estimates.

Mr. BARKER.—I think we are not going to get satisfactory evidence without the estimates. The estimates ought to be here and placed in the hands of the witness, so that he could speak definitely with regard to them. We are taking the witness over 200 odd miles of road without the papers. It is not fair to the committee or to the witness.

Mr. MURPHY.—I submit that is not what is being done at the present time. I am taking up the evidence given by the witness to his counsel, and when he gave an answer that he agreed with certain objections I want to know what they were. He must have known what the objections were or he could not say 'I agreed with them.'

The WITNESS.—I will put it in this way: I agreed with him insofar as I had any personal knowledge of the line.

Q. All right?—A. Certainly, when I did go over the line a second time I certainly did agree with him.

Mr. BARKER.—Why not have the estimates produced?

The WITNESS.—It would help me very much if I had Mr. Mann here, or was able to discuss the thing with Mr. Heaman to refresh my memory on these details.

By Mr. Murphy:

Q. But at the present time you could not give us a specific instance?—A. No.

Q. Even if you had these plans and profiles?—A. Then I might.

Mr. CARVELL.—The witness can ask if he wants to see the plans.

Mr. BARKER.—He has a right to see the plans.

The CHAIRMAN.—If he wants them he can ask for them.

Mr. BARKER.—The progress estimates should be in the possession of the committee.

Mr. MURPHY.—They have been produced and are in possession of the committee. Estimates produced by the clerk.

By Mr. Murphy :

Q. Do you remember a letter, Exhibit No. 3, being put in, during your examination-in-chief, from Mr. Young to you dated June 4th ?—A. No, I don't remember that.

Q. Look at Exhibit No. 3 and see if you remember the filing of that letter (handing letter to witness) ?—A. I don't remember the filing of it. I presume it went in.

Q. You remember that letter filed as Exhibit 3 ?—A. I don't remember the filing of it. I presume it went in.

Q. That letter, I am informed, was written in reply to a letter received by Mr. Young from you which I now ask you to identify (handing letter to witness). Was that the letter you now hold in your hand written by you ?—A. That is my letter, yes.

Q. I will put in this letter as Exhibit 32, but first of all I will read it for the information of the committee. It is marked personal and dated 1st May, but that is obviously a mistake. The correct date was 1st June ?—A. Yes, possibly.

Q. (Reads) :—

EXHIBIT No. 32.

May 1.

(Personal.)

THE COMMISSIONERS OF THE TRANS-CONTINENTAL RAILWAY.

DEAR MR. YOUNG :—

Mann has returned with the report that the position of assistant chief engineer in addition to MacPherson had been offered to Doucet and Hoare who both declined and that Doucet's assistant had been given the position without the title.

Since the 'Free Press' published the report about the appointment kind friends or otherwise have been busy guessing why western men are so far behind that the Commissioners think it advisable to put on an inspector—to see that they live up to contract and specifications. Some say the commission are not satisfied with the engineering ability on District 'F,' and others say that contractors are not satisfied. When I am asked I say I know nothing as I have not heard from Ottawa *re* the appointment.

Mann also brought a report which he got from Morse that engineers on McArthur's contract were classifying sand that ran off a shovel as loose rock. Rumours of this kind are dangerous and no one should pass them on unless they can get partilars that warrant an investigation.

Morse might (if he had been experienced enough) have said to the person who told him that sand was not handled in winter. I hold it is a reflection on Mann, not on the commissioner's engineers.

I have no use for rumors of this kind unless particulars are given, but would very much like to know where Morse got his information from.

Mann is shortly going over the work to look into the classification. I am not able to say if he should be accompanied by the inspecting engineer as I do not know what instructions the latter will get.

If the position of assistant engineer is still vacant I would like to get a chance to accept.

Yours very truly,

A. E. HODGINS.

Now it was in reply to that letter of yours that Mr. Young's letter, Exhibit 3, was sent?—A. Yes.

Q. I will just read that letter because I want to ask some questions on it.

Exhibit No. 3, appearing at page 111 of the evidence.

You sent a reply to that letter of June 4th, dated 6th June, 1907, which is the letter I now show you to be identified (handing letter to witness)?—A. Yes.

Q. (Reads):

EXHIBIT No. 33.

THE COMMISSIONERS OF THE TRANSCONTINENTAL RAILWAY.

6th June, 1907.

Dear Mr. YOUNG:—

Many thanks for your letter of the 4th June. It puts things in an entirely new light from what Mann reported.

In reply to your suggestion about going over the work with Mann. This is something that I particularly wish to avoid as I don't want to have Mann around when discussing matters pertaining to the work with Division Engineers or Resident Engineers. I have nothing I wish to hide from Mann but he can make a good deal of trouble if he quotes 'specifications' too much.

I can't see much to be gained in consulting with any others than my Division Engineers—too many cooks, &c.

Will you be up in Winnipeg on the 10th? You ought to stay long enough to see the Horse Show and the Japanese Chief who will be there about the 15th.

Yours very truly,

A. E. HODGINS.

Mr. HODGINS.—Does it go on to say whether he stayed long enough?

The WITNESS.—I think it was that Japanese Prince with the funny name that went through. Was he not there at the Horse Show? I could not spell his name so I called him a Chief.

Q. Now going back to the letter from Mr. Young to you, of June 4th, I observe that he tells you that the commission had first tried to engage Mr. Barclay whom he refers to as a high class and high priced man and suggests that you know him. So that some time before Grant went up to Kenora to go over your work you had information in your possession showing that the Commissioners had tried to engage Mr. Barclay? Is that not correct?—A. Yes.

Q. And nothing had been said by Mr. Young in this letter, or by any person, to you, that Mr. Barclay was to be employed to look after classification?—A. No.

By Mr. Macdonald:

Q. Do you know Mr. Barclay, Major?—A. Yes, he was on the C. P. R. some years ago when I was on. He was one of the senior engineers. I think he is in charge of Foley Bros. work or was in charge.

By Mr. Murphy:

Q. Mr. Young's letter of June, Exhibit 3, makes it clear to you that the board could not secure Mr. Barclay and they engaged Mr. Grant, is not that correct?—A. Yes.

Q. Now knowing these facts, Major, why did you allege that Grant was appointed to look after classification?—A. Because he spoke of classification to me and spoke of classification to a lot of my Resident and Division Engineers, supported by some of their statements, and he told me that he had charge of the classification down in Quebec when he was assistant engineer for Mr. Doucet.

Q. Oh, but you had made complaints of that kind, had you not, before you had seen Grant, that Grant had been appointed to look after classification?—A. Who did I make complaint to? I don't remember.

Q. I am asking you?—A. I don't remember.

Q. You don't remember that?—A. No. I believe now when I come to think of

it, there was something in the 'Free Press,' when the announcement of Grant's appointment was published in the 'Free Press' in Ottawa. I won't be certain about that.

Q. You won't be certain about that?—A. Something about his appointment.

Q. But do you say now that your reason for making the statement that he was appointed to look after classification was merely from what Mr. Grant himself had said to you?—A. I don't think the question of classification—of Mr. Grant and the classification came up until I had been down in Quebec or he came up on the work.

Q. Yes, but prior to that you had received this letter of June 4th from Mr. Young?—A. Yes.

Q. And you have admitted that from its contents, as you disclose in your reply, there was no intention of engaging Mr. Barclay simply to look after classification?—A. I don't remember what is in those letters, I have forgotten.

Q. The letters that I read to you a few moments ago and that are now on file?—A. Show them to me and I will answer the question.

Q. The letter from Mr. Young to you, Exhibit 3, shows that the commission tried to engage Mr. Barclay and when they could not get him they secured Mr. Grant. In that letter there is nothing said about classification. Then you reply and say that Mr. Young's letter puts the matter in an entirely new light and I want to know why, after all that, you allege that Grant was appointed to look after classification?—A. He certainly interested himself in classification up in my district.

Q. Well now was that your only reason for making that statement?—A. The only reason I can think of.

Q. The only reason you can think of?—A. I put down McIntosh's change in classification to Grant's suggestion.

Q. I am not asking you that, major, it is going back to the reason for Grant's appointment. You were not told that by any person?—A. Told he was appointed to—

Q. To look after classification?—A. Yes, there was some conversation about that on the boat coming down.

Q. With whom?—A. I think it was with Mr. Young.

Q. With Mr. Young?—A. He said that they wanted—every engineer would be putting in his idea of classification.

Q. Yes?—A. And the commissioners wanted a uniform system of classification.

Q. Yes?—A. Therefore they were going to have one man go over the line and report to them.

Q. Are you sure that Mr. Young said that?—A. Yes, I am pretty certain.

Q. Will you swear that Mr. Young said that to you on the boat going down to Quebec?—A. Either on the boat going down to Quebec or in some conversation I had with Mr. Young on the boat.

Q. You will swear that he made that statement regarding Mr. Grant?—A. Yes, to the best of my belief.

Q. And you would have the same opinion about the reasons for the appointment of an inspecting engineer if Mr. Barclay had been appointed and if he had consented to accept the appointment?—A. I presume so.

Q. You presume you would?—A. That would have been the principal duty of an inspecting engineer, to adjust classification. Everything else on the line was more or less uniform.

Q. And that is all you can say now about your reasons for making that statement?—A. Yes.

Q. Now at page 112 of the evidence, referring to Grant's appointment you say: "If you will allow me the use of a western expression, 'you can search me.'" And then it goes on: 'Q. That is you cannot give us any reason'?—A. 'Unless he was to be a second or assistant chief engineer. There is an assistant chief engineer

and he came out to the work once or twice. Still I believe he was told to stay in the office.' Do you remember giving that evidence?—A. Yes.

Q. Then it goes on :' by Mr. Murphy. Q. You do not know that?—A. Yes, I know that.' I want to ascertain what you know about the assistant chief engineer being told to stay in the office?—A. My answer to you when I gave that evidence was hearsay.

Q. Do you know anything more about it now?—A. No.

Q. Can you, speaking from your own knowledge, state whether the assistant chief engineer was ever told to stay in his office?—A. I can't say that he was told or anything about it.

Q. You are referring to Mr. Macpherson, are you not?—A. Yes, but I had heard he was to be kept in the office.

Q. From whom did you hear that?—A. I cannot remember, there is a lot of gossip goes around and one hears it.

Q. So that your personal knowledge on the subject, if it can be called that, is still hearsay?—A. Still hearsay.

Q. If Mr. Macpherson denies that he was told any such thing you are not in a position to contradict him?—A. No.

Q. A little later on in some evidence you stated it was only when you found what you considered excessive classification was creeping in that you found you had neglected the outside for the office work and you admitted you would have liked to have spent more time outside?—A. I think anybody would admit that.

Q. You remember that evidence, major?—A. Yes.

Q. Why didn't you spend more time outside?—A. I had more work to do inside.

Q. Nobody prevented you going out?—A. No.

Q. Then you say you had no complaints from McArthur up to June, 1907, but merely interviews with him?—A. Now about these complaints of McArthur, he has complained to me at several times about the work, and I have tried to fasten where it was, but I could not: some times he would say, 'Everything is going on all right,' and when I would see him again he would complain; his complaints were very irregular, he was erratic and I could never get him down to anything definite.

Q. Now, in answer to your counsel you said (reads):

'I could not get McArthur to get down to a specified case until shortly before I left, and then he mentioned a certain contract, Prefontaine's, I think, in which he said that the engineer had not paid him enough, and I immediately said I would put in an engineer to remeasure it. He said that the classification was too low generally. I asked him if he could state any particular point and he said, no. I asked him for another contractor who had complained and he named a man named Walsh, I think, and I immediately sent out word to the divisional engineer and I think I sent out the assistant engineer to adjust it.

Q. Are these the only two specific complaints from McArthur?—A. The only two I can remember.'

A. If there were any specific complaints these should be on file in the office at Kenora, but I cannot remember any.

Q. Speaking of your staff you said that you could not, with such a staff as you had, and no one else would believe that they were underestimating or undermeasuring?—A. No.

Q. In that event why did you, in this statement to the papers, indicate that they had been overestimating?—A. I will tell you, Mr. Murphy, it is a pretty hard thing for you to believe that, and it was pretty hard for me when I saw it—when you have had men working for you for three years and you have absolute confidence in them, and then they change around, it is a pretty hard thing to realize that.

Q. That is what I understand your answer to be, and I am asking you, in view of the tribute you paid your staff, why did you assert in the newspapers that they

had been overclassifying?—A. Because that was the last thing I found out before I left.

Q. You did change your opinion of them, then?—A. All I said was of McIntosh, and I think he was influenced more by Mr. Grant than by myself, that is the only opinion I have.

Q. So we have got back to Grant again, but Grant was not one of the staff at the time you speak of here?—A. No, but he had been over my work.

Q. How, when you in your examination in chief asserted that no one would believe that these engineers were underestimating or overmeasuring, did you come to make such a sweeping statement as you made in the *Colonist* involving the honesty of these men?

Mr. HODGINS.—What statement do you refer to?

Mr. MURPHY.—Overclassification of the work, increasing the cost by $3,000,000.

Mr. HODGINS.—Is that statement in the *Colonist*?

Mr. MURPHY.—There is another statement in the *Colonist* reflecting upon the engineers.

By Mr. Macdonald:

Q. Are we to understand that you do not take that position in regard to the honesty or dishonesty of the men?—A. I certainly do not, and since I have come down here and read some of the reports that are in that cupboard there, giving legal opinions on this question, these opinions I had never seen or heard of before; when I wrote that letter I had heard there was some dispute about the wording of the specification, but I had no knowledge of any legal opinions on it—since I have read those legal opinions I have considerably modified——

Q. Modified your views?—A. My views.

Q. As to the integrity of the engineers in making their classification?—A. Now, I think I haven't accused the engineers of doing wrong.

Q. Eh?—A. I do not accuse the engineers of doing wrong; I say they were guided by a man I did not——

Q. That is Mr. Grant?—A. Mr. Grant, and I think it was done to help McArthur, McArthur was in a precarious position when I left——

Q. Done by Grant, you mean it was done by him?—A. Yes, he was the one. The engineer that came up and relieved me at the end of the month, the 25th or thereabouts, Mr. Foss, spoke of that. I told him there was a considerable amount of overclassification on the district and he said he did not want to hear anything from me, he wanted to keep an open mind, and we went on discussing the situation and he said that something must be done to help McArthur, the contractor, that if the contract was taken away from him it would probably cost the country $2,000,000 and delay the work, that the chief engineer wouldn't do it, therefore somebody else must do it, and that some engineer must take hold of it with a strong hand even if he goes down and out, and give McArthur some relief.

Q. He advised that to stop the work meant a loss to the country?—A. Yes. I said: You are a fool to make a hero of yourself in that way; you ought to have your orders in writing.

Q. Was it Mr. Foss said that?—A. Yes; that this classification was being given to the contractor to help him out and in order to save the situation out there. Whether it was right or whether it was wrong that it must be done. I thought it was the wrong way. I wanted Mr. Lumsden to give me some authority, and from what I would gather from conversation with Mr. Lumsden, he wanted some authority to give an increase in price, but as far as I read the specifications and the contract, Mr. Lumsden has very large authority, and he could have given me authority to do something. I think, if you read the specifications, you would say that he could have given an increase of prices.

APPENDIX No. 5

By Mr. Murphy:

Q. You are speaking of the conversation you had with Mr. Foss?—A. Yes.

Q. And the classification to which you refer was the classification by force account?—A. Well, if you increase the classification to help a man out you have to have some data to go on.

Q. I am just asking you?—A. It would be based on it. Now, force account can be used in many ways.

Q. We had better not get into that for a moment?—A. Force account and classification could only be used by an experienced engineer. A young engineer has no right to touch force account when classifying; he has no judgment; it would lead him to all sorts of things; he would classify one cut too high and another cut too low.

Q. Well, that does not exactly coincide with the statement in one of your letters, that the classification should always be done by the resident engineer outside?—A. The classification?

Q. Classification, but not when force account is the basis?—A. Not by force account, no. When I suggested force account to the engineer and to the engineers who were present at Willet's camp, if I remember aright—here is a copy of Willet's letter—I said, I will only give that to the more experienced men.

Q. To what are you now referring?—A. I am referring to the letter I wrote to Willet ——

Q. Who is Willet?—A. The resident engineer on the Winnipeg river—to get his statement regarding the interview I had—the conversation that took place at the time I gave this order for force account. I think it has been produced. It goes on to say—

Q. What is the date of that letter?—A. It is of August 8 and 9, 1907:—

'After interview with Messrs. Sutton and Tye, Major Hodgins stated that he was inclined to treat the classification of mixed cuts from a business rather than a purely engineering point of view, and instructed me to ascertain cost of such cuts on my residency, and if the ordinary classification showed a loss to the contractor compared with this cost to classify high enough to cover excesses where possible. Care, however, to be exercised doing this; for instance, not to allow any solid rock in cuts where no such material actually existed. Major Hodgins also said that he did not intend giving such instructions to all resident engineers, but only to the older and more experienced men holding that position.'

There were some engineers I had on the line at that time who were experienced men and who had previously had charge of construction, but there were others who were not experienced.

Q. That was not what I was referring to, but it was with reference to the conversation with Mr. Foss, when Mr. Foss went up there to replace you. I asked you to tell us what classification you had been explaining more particularly to Mr. Foss? —A. He would not listen, and said he did not want to hear anything from me, but that he wanted to have an open mind.

Q. How long did Mr. Foss remain there?—A. I do not remember. I went west, and when I came back he had gone.

Q. Well, how long after Mr. Foss came there was it before you went west?—A. I had to wait. I think it was the first of October before I got the accounts cleaned up in the office.

Q. About the 1st of October?—A. Yes; there was a man named Saults came up from the auditor's office with Mr. Foss, or a day or two afterwards. I think he went to Winnipeg and came back again. He was going over the receipts of the office, and I think it was about the 1st of October when he signed the receipts.

By the Chairman:

Q. Will you just make clear to me, I do not catch exactly your testimony—did you say that McArthur was in a very bad shape about this contract, and that something was to be done for him?—A. That is what I understood, sir. Mr. McArthur

had told me—of course, he did not tell me he was in bad shape—but he told me he wanted as high estimates as possible.

Q. Did I understand you to say that something must be done, or that if McArthur had failed it would have been a loss to the country?—A. That was Mr. Foss's idea; that was what Mr. Foss said.

Q. What was your own suggestion to remedy that state of affairs, that you should proceed by force account?—A. No, to classify high enough.

Q. That is by force account?—A. There was no mention of force account, but to classify high enough, I think those were the words used.

By Mr. Hodgins:

Q. The Chairman is asking what you suggested. You are giving Mr. McArthur's statement?—A. Oh, I did not suggest anything to Mr. Foss, but I have suggested as one way out of it, to increase where the contractors were disputing the classification only, because they were losing, to give 10 per cent.

By Mr. Carvell:

Q. Wherein would the loss to the country be if McArthur was unable to carry out the contract?—A. I do not know, sir, that is Mr. Foss's argument. At another time, I do not know whether I suggested it to Mr. Lumsden or not, I had suggested an increase in the prices, I know I did suggest it to Mr. McArthur.

By the Chairman:

Q. You realized that something must be done, and you made that suggestion?—A. I knew that McArthur was going behind from what he told me, that his sub owed him—he told me $800,000 at one time, and later on his engineer told me it was $1,200,000—that was money he paid to his sub. and I said, 'Why do you not apply for increased prices? Since you have the contract wages have gone up from 17½ cents to 25 cents and this work must be pushed, it cannot dawdle, it has got to be hurried up to complete the link between the Prairie section and the Thunder Bay section.' and he said, that if they had a good increase in prices he would be able to raise the wages and in that way would be able to get more men, and I understood that he was going to see the commissioners about it. At another time I suggested, I do not know whether it was to Mr. Lumsden or to the men on the work, it was discussed a great deal among the men on the work, that a very good way would be to put in a fourth price for other material; the contract was 30 cents for earth, 60 cents for loose rock and $1.70 for solid rock; the difference between 60 cents and $1.70 material was very large, there was too much difference, and I suggested that there should be a 90 cents or $1.00 material between the two. These are the ways I suggested but I was informed that all these things would have to have the sanction of the commission, and they said the sanction of parliament.

By Mr. Murphy:

Q. What would your intermediate material at 90 cents be?—A. Well, we would have had to have the specifications for loose rock re-written. You are not an engineer, but every engineer who reads that specification for loose rock will tell you that that plow test is a terrible test to put on.

Q. So that in order to have brought your suggestion as to an intermediate material at 90 cents into effect the specifications would have to be rewritten?—A. That plow test ought to be left out.

Q. That is your idea?—A. Yes.

Q. It is too high for common excavation, is that what you mean?—A. It says that material that cannot be plowed by a ten inch plow behind six horses properly handled.

Q. If it can be plowed it will be common excavation?—A. Yes. You know if

the plow test is to be the test, you put a teamster on with six horses on any ordinary plowed land and he can break his harness if he wants to, or he can plow if he wants to, and it is a pretty hard thing for an engineer to say that a team has not been driven properly. It is unreliable, you cannot go on it, the engineer who doesn't know how to plow, who never has been behind a plow, has to say whether this material was 'material that can be plowed.' Now another thing is that muskeg or swamp land is more or less common excavation, but you cannot plow that. Then take scattered material, stripping on cuts, that is coming down the side of a hill, you cannot plow down the side of a hill, but you could if you were on level ground, you could plow through it easily. Of course the contractors always take advantage of that sort of thing, and they say, that can't be plowed, and we ought to get loose rock for it.'

By Mr. Carvell:

Q. According to your ideas, classification is entirely a question of judgment?—A. Absolutely.

By Mr. Macdonald:

Q. This test that you speak of is the one that is prescribed in the original specification—that is the plow test?—A. Yes.

Q. You think it is neither reliable nor fair?—A. You can see from the way I have been trying to describe it, you can see the point I am trying to make. There are some cases where you couldn't plow sand, and the specification says that if a 10 inch plow with six horses properly handled—if the material cannot be plowed that way it should be loose rock.

By Mr. Murphy:

Q. Then if you were working in mud?—A. You cannot plow mud.

Q. Would you return that as loose rock?—A. That is a question of judgment. That is one of the arguments I had with McIntosh when they were looking at some cuttings on the Waubigoon River. It was raining, it could have been plowed if it had been fine, but the work had to go on and they could not plow it because the horses slipped all over the place.

Q. And what return would you make in a case of that kind?—A. There is the question, you would be returning loose rock for the cutting one day and the next week, the weather was beautiful and fine, and you would be returning it as common excavation.

Q. What would you have done in a case of that kind ?—A. I was trying to find out, to get the information that would enable me to come to some conclusion with regard to all these clay cuttings, as to what would be fair and just classification for them.

Q. That was with McIntosh ?—A. Yes.

Q. Was that the time you told McIntosh you didn't care to have anything to do with the clay ?—A. I never told him that.

Q. I am informed you did.—A. I did not. I was out on the work with McIntosh and I found that he had classified a very large amount of material in the cutting.

Q. Is not that the time you told him you did not want to have anything to do with a clay classification yourself ?—A. I never told McIntosh that. I wanted to find out from McIntosh, to get some data from him that I could go on in fixing a fair classification on loose rock in these cuttings. McIntosh could not give it to me. He had given certain classification in one cut, and a different classification in another, and a different in still another, as far as I can remember. We had discussed this thing up on the cuttings one day and I told him I intended going over the work and in reference to this clay cutting that we went over I wanted to come to some determination that would be fair to all parties, as to the allowance of loose rock in these clay cuts, because we had a very very wet season. But at the same time I told McIntosh—if you remember that in prairie work, it was not the same

kind of clay, it was the ordinary Manitoba black mud they have up there—that on prairie work if you began to classify at all in loose rock McArthur would be able to put in a claim for loose rock on all of his prairie work.

Q. Did you issue any instructions in regard to that ?—A. No.

Q. So that was an open question ?—A. I wanted to get some details from McIntosh as to the cost of the work on every section, the cost it was to the contractors on wet days and the cost on dry days, so as to get some average; I wanted to get some data that I could place before Mr. Lumsden and say, I have come to a certain conclusion and recommend this.

Q. In any event no instructions were issued by you ?—A. No.

Q. Were these details furnished that you asked for ?—A. No.

Q. Why ?—A. I did not get them from McIntosh, I wanted them, he had a large amount of detail.

Q. Did you ask for them in writing ?—A. Yes.

Q. Did you ask McIntosh in writing for these details ?—A. No, I explained it to him on the works. As I remember it was on Sunday, there were no men working, and I wanted to go on the next day; we walked out on these clay cuttings, and this discussion I had with McIntosh, I wanted to be able to allow something.

Q. You did not get these details in any event you say?—A. No.

Q. Now, leaving this plow test and this classification of clay of which you have been speaking and getting back to the interview with Mr. Foss at Kenora—Mr. Foss went up there to take your place temporarily until your successor Mr. Poulin arrived, didn't he ?—A. He said he came up there as acting district engineer, and he was to find out, and if he liked the position, or something of that kind, had been promised to him, and he would be district engineer.

Q. As a matter of fact Mr. Foss remained there only four days, didn't he ?—A. No, longer than that.

Q. How much longer ?—A. Well, he was there three or four days before I got transferred, I do not remember.

Q. That is before you went away on your first trip ?—A. Yes, Mr. Foss must have been there a couple of weeks or more.

Q. Yes, but I am talking about the time that you could possibly have had this interview that you allege took place with Mr. Foss. That was only, as I am instructed, within the space of four days within the time of his arrival and your going away on your first trip?—A. Oh dear no, I was there longer than that.

Q. You went away, you know, you told us, before, for a month, and came back ?—A. Yes.

Q. And when you came back you found Mr. Poulin there ?—A. Yes, I think possibly there was more than four days.

Q. In any event then Mr. Foss was there such a short time he had very little to do with the work ?—A. Yes, he came up too late to go over the work, I think it was about the 20th or something like that.

Q. So that this 'classifying with a strong hand,' as you allege, or whatever the phrase was that he used, could not have been put into force by Mr. Foss on account of the short time he was there?—A. I do not know, I do not know what he did while I was away—I am not responsible.

Q. Now you have told us about having met difficulties which you experienced in getting Mr. McArthur to specify complaints and going out on the work ?—A. Yes.

Q. You met him once out on the Winnipeg river ?—A. Yes.

Q. Was that the time you were making inspection of the work ?—A. What inspection.

Q. Was that the time you were out making inspection on a steamboat ?—A. I never made an inspection on a steamboat.

Q. When was it you met Mr. McArthur—you say you were up on the Winnipeg river?—A. Yes, we went over a piece of work, it was in the early part of the contract; there wasn't very much work done—clearing I think was going on.

Q. As a matter of fact were you not out inspecting when you met him?—A. I expect so, I was going over the work.

Q. On that occasion did you go into any of these complaints that he had been making?—A. No, there was none then; I probably was asking him to put more men on the clearing.

Q. Do you remember what you were doing on this occasion on which you told your counsel you had met McArthur once on the Winnipeg river?—A. Yes, that was in the early part of the contract; Dutton I think had just finished building his camps when McArthur came up. We went over the country up to Dutton's camp together, or whether I met him at Willet's camp I do not remember.

Q. Did you, on that occasion, investigate any complaints McArthur had been making?—A. I do not know that there had been any complaints on that occasion.

Q. What do you call an inspection trip?—A. What do you call an inspection trip? Every time I go out on this work I may call it an inspection. The trouble with this investigation is that I am an engineer and I have to explain my work to a lot of lawyers. Every time you go out on the work an engineer is supposed to make an inspection. If he sees anything wrong he attends to it. I can only say I am trying to put it as plainly as possible.

Q. You told the committee that you had asked McArthur to specify complaints he was making and you would go out and investigate, and you told us of the difficulty you had to get him to do that, and then you told us how you met him once on the Winnipeg river. I want to know what you were doing there.—A. I do not know whether there were any complaints then. I remember meeting McArthur once on the works; I had endeavoured to get him to make an appointment with me to go over the work.

Q. As a matter of fact you did not investigate any of these complaints because this trip you speak of was not to investigate the complaints?—A. There was, as a matter of fact an investigation pending when I left.

Q. You are not referring to the inspector you sent out to subcontractor Walsh? I am talking about your own investigation?—A. My dear sir, when a complaint is made about measurements to me you do not suppose I go out with a tape and measure it; I have men to do that. If I am told to run a line I have men to do that. I am not a transit man, or a section man or a resident engineer, I was the district engineer. I do not do any detail work.

By Mr. Macdonald:

Q. I suppose that you are aware, with regard to the contract for construction of the Transcontinental line, that any disputes about classification are ultimately to be determined by a board of arbitrators composed of engineers?—A. That is any disputes between the chief engineer of the Grand Trunk Pacific and the chief engineer of the Transcontinental Railway.

Q. Now, in that case these two gentlemen are members of the board; any disputes that may arise at any time with regard to classification between the board and the Grand Trunk Pacific are to be determined by a board which is made up of these two engineers and a third party who is to be selected by them?—A. Yes.

Q. You understand that?—A. Yes.

Q. I suppose you would regard that as a far better tribunal?—A. I know Mr. Lumsden and Mr. Wood are up on the work now and they are the proper parties to settle a dispute of that kind.

Q. You regard them as the proper persons to settle that?—A. Yes.

Mr. Hodgins.—That is not the proper tribunal to determine Major Hodgins' charges, if you will allow me to say so, Mr. Macdonald.

A. I am having the same amount of trouble in explaining my case to you lawyers here as I had in explaining it to that reporter of the *Colonist*.

Committee rose.

WEDNESDAY, June 3, 1908.
3 o'clock p.m.

The committee resumed.

Cross-examination of Major Hodgins continued:

By Mr. Murphy:

Q. I would like to know what method you employed at your office in Kenora in keeping the record of the office correspondence. Did you copy all letters into a book?—A. All letters into a book, yes; and there was an extra copy from the typewriter filed away.

Q. Were they written in ink or done on a typewriter?—A. They were nearly all done on a typewriter, I think.

Q. Nearly all done on a typewriter?—A. All the official letters were done on a typewriter.

Q. So that in the case of letters that were typewritten you would have a copy in your letter-book and the carbon copy as well?—A. Yes, on the file.

Q. Now, in the case of letters written about commission business, but not written to persons connected with the commission, would the same record be kept of them?—A. Written about the commissioners' business?

Q. If you were writing a letter about a matter relating to the commission, but to some person not connected with the commission, would you keep a copy or copies of such letters in the same way as the official letters you have spoken of?—A. I don't know what you mean.

Q. For instance, if you were writing to Mr. Lumsden or Mr. Macpherson here, I understand that you would copy all letters sent to them in this letter-book that you spoke of?—A. Yes.

Q. But if you were writing to some person, not connected with the commission, about commission business, would you copy such letters as that into this book or into those books?—A. I don't know that I ever wrote to anybody about commission business.

Q. Well, in the course of your management up there you must have had occasion to write to a good many people, I should take it, who are not connected with the commission?—A. All official letters were copied into the letter-book.

Q. That is whether they were written to officials of the commission or to persons not connected with the commission?—A. Every one.

Q. They were all copied into the letter-book?—A. Yes.

Q. Might it happen that a letter would be sent out that would not be so copied into the letter-book?—A. I don't think so.

Q. You don't think so? You have not any case of the kind in mind?—A. No.

Q. I have seen among the productions before the committee some letters that on their face appear not to have been copied, typewritten that did not show any of the blur that water usually produces. That is one of the reasons why I wanted to ask you if there were some letters sent out from your office that were not copied into the letter-book?—A. I cannot recall any.

Q. You cannot recall any?—A. No.

Q. Then I understand you to say that, as far as your memory serves you now, all letters sent from your office on matters relating to business connected with the commission, whether sent to officers of the commission or not, would be copied in your letter-book?—A. They had to be copied.

Q. Whether written by you or one of your assistants?—A. Exactly.

Q. During your term of office as district engineer of 'F' there was a purchase of some land up there for the purpose of a gravel pit, was there not?—A. Which gravel pit was that?

Q. Was there more than one?—A. Yes.

Mr. HODGINS.—I object to that. What is the object of your question?

Mr. MURPHY.—I am asking the Major about his correspondence and the method of keeping it.

Mr. HODGINS.—Now you are giving a particular instance.

Mr. MURPHY.—I am giving a particular instance.

Mr. HODGINS.—What is it directed to?

Mr. MURPHY.—I do not think that at this stage I am obliged to disclose what it is directed to. I will do so later on.

Mr. HODGINS.—I will object to your next question then.

Mr. BARKER.—It must relate to the inquiry.

Mr. MURPHY.—It does relate to the inquiry. The inquiry, as I have understood from statements made by my learned friend, Mr. Barker, several times, is not limited to the charges made by Major Hodgins, nor to Major Hodgins' prosecution of this charge, and that the committee have the widest liberty to go into all kinds of things.

Mr. MACDONALD.—I don't agree with that proposition.

Mr. MURPHY.—We might as well understand it now then.

Mr. BARKER.—What I contended for was that we should go into everything referred to us.

Mr. MACDONALD.—It is a matter for the discretion of the committee.

Mr. MURPHY.—I see.

Mr. MACDONALD.—What is the particular point?

Mr. MURPHY.—I have asked Major Hodgins if, while he was district engineer, there was a parcel of land purchased to be used as a gravel pit.

Mr. HODGINS.—Are you going into the purchase of a gravel pit? That is what I want to know.

Mr. MURPHY.—I may have to.

Mr. HODGINS.—That is exactly the point I am making objection to.

Mr. MACDONALD.—If your question relates to any evidence you propose to offer to show that there was any lack of attention of duty on the part of Major Hodgins as engineer I can see that it would be relevant.

Mr. BARKER.—Does it relate to the contract at all?

Mr. MURPHY.—Yes, sir. I purpose inquiring regarding the correspondence relating to the purchase of land for a gravel pit.

Mr. CARVELL.—It seems to me that both counsel have the advantage of the committee. They seem to know what this has reference to and unfortunately we do not.

Mr. MURPHY.—I am asking the witness to explain the method employed of keeping the records of his correspondence. He has told us that and now I am asking about the purchase of this gravel pit and I will ask him further, subject to the ruling of the committee about the correspondence.

Mr. CARVELL.—Does it in the end elucidate in any way the reasons for Major Hodgins' dismissal or is it connected in any way with the classification, or are the commissioners connected with it? It seems to me those are the three things we are discussing or ought to discuss in this investigation.

Mr. MURPHY.—If that rule had been applied from the beginning a great deal of the evidence already given would have been excluded.

Mr. CARVELL.—I don't think that personally I can be charged with having departed from that rule. I have adhered to it consistently from the beginning.

Mr. MURPHY.—I am not making any charge against the committee. It is the general latitude that has been allowed to counsel.

Mr. BARKER.—We cannot go beyond the reference to us.

The CHAIRMAN.—That is the opinion of the committee, that we cannot go beyond what has been referred to us by the House. If you can tell us that you are going to put questions that are in any way pertinent to the inquiry probably the committee will allow you to do so. But we cannot see by the questions you are putting just now what you are leading up to.

Mr. MURPHY.—You will recall, Mr. Chairman, that at one of the former sittings the witness was asked by his counsel with reference to a conversation that took place between him and a man named Dutton who was in no way connected with the commission?

Mr. HODGINS.—As to the state of the McArthur contract at that date, information conveyed to him as an engineer requiring to make a certain plan or report.

Mr. MURPHY.—That was only a part of the information. The witness proceeded to tell what Dutton said about what Grant had told him and a number of other things of that kind. When that evidence went in there was some objection made but it was allowed.

The CHAIRMAN.—It was allowed. I know we have given a very wide latitude to counsel throughout the investigation because we wanted as full inquiry as possible but there must be some rule about it.

Mr. MURPHY.—There seems to be a disposition now not to pursue the matter relating to the correspondence about this gravel pit?

Mr. BARKER.—Supposing Major Hodgins or Mr. Hodgins, K.C., desires to go into something of a similar nature without regard to the commissioners, would the committee be asked to allow it?

Mr. MURPHY.—I could not answer that until such a question came up. However, I will not pursue the matter further at present but will reserve it for the decision of the committee later on.

Q. You have told us, major, that while you were here in Ottawa preparing your reply to Mr. Grant's report you had to wait two or three days before the board left?—A. I think so. I think Mr. Parent and Mr. Young were in Quebec at the time.

Q. And that during that interval you had an interview with Mr. Reid in his office?—A. Yes.

Q. At which only he and you were present?—A. Yes.

Q. That is the occasion, as I understood, on which you said that Mr. Reid told you when discussing your relations with the chief engineer that you should act on your own responsibility?—A. Yes.

Q. And that when you told him you could not do so he inquired why you did not ignore the chief engineer?—A. Yes, more of a suggestion———

Q. More of a suggestion than a direct inquiry. Now is it not a fact that that interview between you and Mr. Reid was a general talk about the conditions on the work arising from the filing of Grant's report?—A. It arose on account of Grant's report.

Q. It arose on account of Grant's report? And did you not on that occasion complain to Mr. Reid that you had not sufficient authority?—A. Yes. I don't know whether I complained to him. I stated that I had not.

Q. You said that you had not sufficient authority?—A. I spoke about the chief engineer not giving me authority to borrow rock in places where I knew it would be necessary to borrow it.

Q. And in reply to this statement of yours did not Mr. Reid point out to you that you had the same authority as the other district engineers?—A. I don't think he put it in that way. He made some reference to Doucet acting on his own responsibility or authority in more or less everything.

Q. Do you remember his saying to you that he thought you did not use the authority you undoubtedly had and that you referred too much to the head office? Do you remember that?—A. No. But I certainly used all the authority I had.

Q. Well do you recall Mr. Reid saying that to you?—A. No, I do not.

Q. Well you will not deny it I suppose?—A. Not in those words.

Q. You will not deny that he may have said it to you or is your memory sufficiently good to enable you to recall just what did take place?—A. I should prefer hearing Mr. Reid's statement of the conversation before I would commit myself to that.

Q. Before you would commit to an answer as to that?—A. Yes.

Q. Do you remember Mr. Reid advising you to be sure of your ground in connection with any matters that came up such as you and he were discussing and that you ought to decide first and consult afterwards?—A. No.

Q. You don't remember anything of that kind being said?—A. No.

Q. Do you remember Mr. Reid telling you also that he thought the Chief, that is the Chief Engineer, would prefer that you should do this?—A. No.

Q. And then Mr. Reid added that you would find that it would save you a lot of correspondence?—A. No.

Q. Now you say what Mr. Reid said to you on that occasion with regard to the Chief Engineer was a suggestion that you ought to ignore him?—A. Yes. 'Why don't you ignore the Chief Engineer?'

Q. Of course, you knew that under the Act and the contract that was utterly impossible?—A. Absolutely.

Q. It could not be done?—A. Certainly not.

Mr. HODGINS.—Why could it not be done?

Mr. MURPHY.—Because of the legislation.

Mr. HODGINS.—That did not prevent him from doing a thing.

Mr. MURPHY.—It would in this particular case.

Mr. MACDONALD.—What is the necessity of a discussion between counsel. Go on.

By Mr. Murphy:

Q. You knew that Major?—A. I did.

Q. That it was an impossibility?—A. I did.

Q. And did you think that Mr. Reid would suggest a thing to you that you knew to be an impossibility?—A. He did suggest it.

Q. Mr. Reid must have known what the terms of the Act were and what the position of the Chief Engineer was, as well as you?—A. Well from reading subsequent correspondence he knew the chief a little better than I did.

Q. He may have known him a little better than you did. I am not talking about his knowledge of the Chief, whether it was greater or lesser than yours, but would not Mr. Reid know that what you described as being an impossibility was an impossibility?—A. I should imagine so. But the conversation arose from my saying that the Chief Engineer would not give me authority to do certain things that I wanted without consulting him first.

Q. Yes?—A. Then that was his suggestion.

Q. I see. Well on that occasion when Mr. Reid made the statement, or as you say now only the suggestion to you, did it convey to your mind that you should do anything illegal?—A. No.

Q. And that you were not doing——?—A. The question that I referred to him, or spoke to him about, was the borrowing of rock.

Q. That you spoke to whom about?—A. Mr. Reid. That was the question that we were discussing, that I had in my mind, because I think I had just come away from seeing the Chief Engineer and he had refused to give certain authority in a general way and I had to write to him all specific instances before he would give the authority.

Q. And was that the occasion that you have told us about when Mr. Reid is alleged by you to have said that you were too much of a military man and too loyal to your chief?—A. Yes.

Q. Just about a month before that, or a little more than a month before that,

when you were in Ottawa Mr. Lumsden had told you to go over the work with Grant and you had refused, as you said, point blank?—A. Yes.

Q. No one paid you a compliment on that occasion about being too loyal to your chief, I suppose?—A. It was Mr. Lumsden that I refused.

Q. Yes?—A. And he did not press it.

Q. Your loyalty then just extended to a point of the matter that suited yourself? Is that not a fact?—A. He would have pressed—if he had wanted me to go he would have pressed the point on me.

Q. And you say he did not?—A. No, he did not.

Q. He gave you that instruction and you declined to obey him?—A. Certainly.

Q. You have told us about another conversation which you also alleged to have had with Mr. Reid on the boat going down to Quebec. To use your own language, taken from the evidence, 'I was doing a considerable amount of picking about Grant's appointment.' You remember saying that?—A. Yes.

Q. Then you said that Mr. Reid stated that the appointment had been made and would have to go?—A. Yes. The circumstances were these: When I got to Ottawa I heard—I spoke to several other engineers and they spoke to me when I met them there——

Q. That is when you were going down to Quebec?—A. Yes, they criticised the appointment.

Q. Yes?—A. And they were sitting together. I think I did the talking.

Q. You were sitting together where?—A. On the boat.

Q. Yes, and there is where this alleged conversation took place?—A. Yes.

Q. Were there anything else said by Mr. Reid on that occasion?—A. I don't remember.

Q. Do you remember Mr. Reid walking to this group and stating that Mr. Grant had been appointed by the commission and that his appointment would stand, no matter what the rest of the engineers might say?—A. I don't remember those words.

Q. Well, words to that effect?—A. I don't think he walked up to the group as you called it. He was sitting down and we were sitting down too on the deck of the steamer.

Q. He was one of the group, was he?—A. Yes.

Q. Do you remember his walking away when he used those words?—A. No.

Q. Well, do you remember any other conversation you had with Mr. Reid particularly on the boat?—A.No, I don't.

Q. Then I think you stated that it was the same occasion on which Mr. Young said that the Quebec classification was to be taken as the standard?—A. It was on that trip.

Q. Was it not on the boat?—A. I won't say whether it was on the boat or where it was but it was certainly on that trip.

Q. Who was present when Mr. Young made that statement?—A. I don't know.

Q. You don't know whether anybody heard this but yourself?—A. No.

Q. If Mr. Young denies having made that statement what have you to say?—A. He certainly said it.

Q. You will maintain that he said it?—A. Yes.

By the Chairman:

Q. But you don't remember where and when the statement was made?—A. It was on that trip.

Q. But you cannot remember where it was or on what occasion?—A. No, I do not recall the——

By Mr. Murphy:

Q. Then speaking of your visit to the work at La Tuque and to the cutting that

you saw there you say that you asked the engineers about the quality of the work and they told you that they classified it as 85 or 86 per cent?—A. Yes.

Q. Where did that conversation take place?—A. That was at the first cutting we passed.

Q. At the first cutting as you passed?—A. Yes. It was this—I described it as a tunnel cutting.

Q. I see?—A. We got out of the carriage and walked up into one face of it and then we walked over the cut and went to the other face.

Q. And was this the first cut that you met?—A. It was the first cut we met on the return trip that we came close up to, that we got out at.

Q. That you got out at?—A. The first cut that several of us got out at.

Q. On the return trip?—A. Going down to this camp where the contractors gave us luncheon.

Q. Who was present when Mr. Doucet made this statement?—A. I do not remember, there were some of his engineers present, and Mr. Armstrong was there.

Q. Mr. Armstrong was not one of his engineers was he?—A. No, but I think Mr. Huestis was there. I do not know but he asked one of his engineers who was there—I do not know whether he gave me the information direct or whether he got it from one of his engineers.

Q. You do not know whether he gave it to you direct or whether you got it from one of his engineers?—A. I asked the question, but whether he answered direct or asked one of his engineers I do not remember.

Q. I see. You did not tell us that before, that he asked one of his engineers?—A. I do not think it has anything to do with it.

Q. It is very important whether a man makes a statement himself or gets the information from some one else and imparts it, it is a very different thing because Mr. Doucet denies that he ever made any such statement. I would like you to recall a little more distinctly what happened?—A. If he said that?

Q. Now, first of all, did he say it?—A. He did say it.

Q. Now, you have just told us that you do not know whether he did say it or whether he turned around to one of his engineers—now, which was the case? Now, don't misinterpret what I said, he answered me.

Q. Mr. Doucet was the man who answered you?—A. He was the man that answered, he was the man I asked.

Q. But you do not know whether he was making the statement from his own knowledge or whether he got it from one of his engineers?—A. Mr. Davis, the contractor, was there and was looking at the cut and he said, 'Well, if you give me that arrangement I think I will run the tunnel through myself.'

Q. Who said that?—A. Mr. M. P. Davis.

Q. Who else was there?—A. I do not remember.

Q. You do not remember any one else, but you remember having a conversation with Mr. M. P. Davis about it?—A. I do remember that I spoke to one of the contractors, I think he was an Italian, I do not know what his name was—it was a nasty cut and a hard cut to deal with, and I spoke to him about it, he was an Italian, and I asked him how he was coming out on it and he said that at first they had been going behind, and then a reclassification was made, and it was all right now.

Q. Who was present when this conversation with the Italian took place?—A. The Italian and I were walking together.

Q. Do you remember his name?—A. No.

Q. Well, what was he? What position had he, connected with the work?—A. Subcontractor, he was doing the work there.

Q. Had you ever seen him before?—A. No.

Q. Where did you get this information about him?—A. This information?

Q. The information that you have just given the committee, that he was a subcontractor doing work there?—A. He told me so, I think he asked me something

about Mr. Miles or some engineer in New Brunswick, or McKenzie, I think it would be, I had one or two engineers from New Brunswick; then I asked him if he was a contractor, and he said yes.

Q. You had never seen him before?—A. Never seen him.

Q. How did he come to ask you these questions?—A. I do not know.

Q. Did he know who you were?—A. I presume so.

Q. Did you tell him?—A. No.

Q. Where were the rest of the party?—A. We were all together.

Q. How was it none of the rest of them heard any such conversation?—A. I do not know.

Q. Is this the cut that you told your counsel you spent ten or fifteen minutes at?—A. I did not time myself, we walked over it.

Q. I am not asking you that. Is this the cut you said you spent ten or fifteen minutes in?—A. That is it.

Q. And during that time you had all this conversation, and made the inspection of the cut you have told us about?—A. I did not inspect it, I walked into it and walked over it.

Q. And you gave a description of it?—A. Yes, I believe in that description I confused two cuts.

Q. I think you confused more than two cuts, Major?—A. You think so.

Q. What confusion is there about the cuts?—A. That cut consisted of——

Q. When you say 'that cut,' which one do you mean ?—A. The first one.

Q. The one you spoke of in your examination in chief?—A. I only spoke of one cut and I spoke of sand being wasted on the top of it; I do not think there was any sand, I think it was another cut that I hadn't spoken of.

Q. When did you get that information?—A. When I was reading over my evidence—the charges.

Q. The which?—A. When I was reading over the description of that cut in the charges.

Q. The description in the——A. The written charges.

Q. I see, is that all the information you have got since you were here last?—A. Yes.

Q. You now say that you confused this tunnel cut with another one?—A. No, I did not confuse the cut, I said on the top of this cut, I was referring to another cutting, classification, there was sand being wasted, I saw sand was being wasted on another cutting, the next one we went through. I did not pay very much attention to that.

Q. Was that the only difference, the only confusion you had reference to?—A. Yes.

Q. Now after your visit to the work you told my learned friend that you stayed in Quebec over Sunday?—A. Yes.

Q. And that you had a long talk with Mr. Armstrong?—A. Yes.

Q. And that in the course of this conversation Mr. Armstrong told you that over-classification in District 'B' would amount to $2,000,000?—A. Yes, he said he had a rough estimate of it, about that.

Q. What were his words?—A. That is what he told me; his exact words were that a rough estimate of this over-classification would amount to about $2,000,000.

Q. Was there any one present at that conversation?—A. No.

Q. Where did it take place?—A. We were sitting on the terrace watching the ships on Sunday afternoon.

Q. Just yourself and Mr. Armstrong?—A. Myself and Mr. Armstrong.

Q. And, as I recall your evidence, you brought up the subject; and he told you, according to your statement, that he was reporting the over-classification, but that his people had done nothing?—A. Yes.

Q. But that he presumed they would dispute it?—A. Yes, something to that effect.

Q. Did you make any notes of that conversation?—A. No.

Q. Is your recollection of it or Mr. Armstrong's likely to be the better?—A. I fancy it will be the same.

Q. You think that it will be the same?—A. Yes.

Q. If Mr. Armstrong does not recall making any such statement as this, then what have you to say?—A. He has forgotten it.

Q. That he has forgotten it?—A. Certainly.

Q. You have already told us that when you were here in Ottawa waiting to put in your answer to Mr. Grant's report, you had to wait two or three days before the board met. Did you, during those two or three days, discuss matters connected with District 'F' with any engineers in Ottawa?—A. I possibly did; I was in the assistant chief engineer's office.

Q. That is Mr. MacPherson?—A. Mr. Macpherson. He asked me a lot about it. We were talking about a lot of things that were up for discussion.

Q. Did you see any other engineers and discuss matters with them when in Ottawa on that occasion?—A. I do not remember.

Q. Do you remember seeing Mr. Schreiber?—A. I possibly saw him; I do not remember.

Q. What position does Mr. Schreiber hold?—A. I do not know; I think he is in Mr. MacPherson's office.

Q. I do not mean Mr. Schreiber in the commissioners' office, but Mr. Collingwood Schreiber, the former Chief Engineer of the Railways Department?—A. No.

Q. Do you remember seeing him while you were here?—A. No.

Q. Are you quite sure as to that?—A. Yes.

Q. You didn't see him? Did you go to his office?—A. No.

Q. Are you clear as to that?—A. Yes.

Q. Well, you know that Mr. Collingwood Schreiber occupies an official position and has official relations with the Transcontinental?—A. Yes.

Q. Did you ever have any interviews or conversations with him, or correspondence, I should say, with him?—A. None.

Q. Is there anybody else whom you went to see?—A. I think I saw Mr. Butler.

Q. Who is he?—A. The Deputy Minister of Railways; he used to be the assistant chief engineer.

Q. He used to be the assistant chief engineer of the Transcontinental Railway?—A. Yes; I usually go to see him.

Q. Did he occupy the position of assistant chief engineer when you were upon it?—A. Yes.

Q. You had official relations with him while he remained there?—A. Yes.

Q. You say you went to see him while you were a few days in Ottawa last July?—A. Yes.

Q. And did you discuss these matters relating to District 'F' with him?—A. I think I discussed the report that Mr. Grant had put in.

Butler, in his present position, any official connection with the Transcontinental?—A. Yes.

Q. Had you been in the habit of going to see him when you came to Ottawa?—A. Yes, I generally go to see him when in Ottawa.

Q. And the relations between you and Mr. Butler were——A. Very friendly.

Q. What discussion did you have on the occasion that you speak of in July last; you say you went to see him, and talked over Grant's report?—A. Yes.

Q. Now, what actually took place?—A. I told him that Grant had said certain things to me and they were rather serious matters; and I asked him, I think, what he thought of it. I forget exactly the conversation.

Q. You mean things that Grant had said in his report?—A. No; said to me in my office.

Q. These, I presume, would be the matters that you speak of in your evidence in chief?

Mr. Hodgins.—He doesn't say it is.

By Mr. Murphy:

Q. Well, are they?—A. Yes.

Q. Then what took place?—A. He said he would find out about them, and asked me to call the next day, I think, or that afternoon, I have forgotten which.

Q. You told him what you claimed Grant had said to you in your office at Kenora?—A. Yes, sir.

Q. And you have already told us about this in your evidence in chief, and you say Mr. Butler said he would see about that and asked you to call and see him the next day—A. That afternoon or the next day.

Q. Did you call on him again?—A. Yes.

Q. What took place at the second interview?—A. He told me, I think, that Grant had no authority to speak like that.

Q. What else was said?—A. I think that is about all.

Q. From whom had he made enquiries in the interval, do you know?—A. He did not tell me.

Q. He did not tell you; now did you discuss classification with Mr. Butler?—A. I do not remember how much we discussed, I had a short interview with him, there was somebody else waiting then.

Q. Well, on any occasion during that week did you discuss classification with Mr. Butler?—A. I do not think I saw him more than those two times, I would not be certain.

Q. On either of those two occasions that you do recall did you discuss classification with him?—A. Possibly, though there was not very much question then, there wasn't very much to be classified or had been classified up to that date.

Q. I am not asking you that, but you did discuss it at all with him?—A. I cannot say positively, I do not remember.

Q. Did you make the statement such as you have just made, to Mr. Butler?—A. Which?

Q. That there was not much to classify up to that date?—A. Possibly.

Q. Do you recall whether you did say something of that kind or not?—A. No.

Q. Did you discuss the question of adopting force account on the work?—A. No—no, that did not come up, I had not proposed it to the chief engineer.

Q. I am not asking you that, Major, I am asking you if you did not, on either of those occasions that you visited Mr. Butler, discuss with him the possibility of putting force account into operation in your work.

By Mr. Hodgins:

Q. While waiting in Ottawa?—A. No, I do not remember it if I did. I would not have recommended——

By Mr. Murphy:

Q. If you had discussed it with Mr. Butler, you would not have remembered it?—A. At that time I would not have approved of it.

Q. I am asking you if you did discuss it and what was said?—A. No, I did not discuss it.

Q. Isn't it a fact that you did discuss it?—A. No.

Q. I would like to recall this conversation, Major?—A. I am trying to, I do not think we had a very long discussion.

Q. Is it not a fact that you told Mr. Butler what you proposed to do with regard to adopting force account and that he warned you not to do it?—A. No, not to my knowledge.

Q.Did he not, on one occasion on which you called on him, I am instructed you did, discuss force account, point out to you that under the contract it could not be adopted ?—A. No.

Mr. HODGINS.—Specify the occasion.

Mr. MURPHY.—I understand there was only one, but he says there were two.

By Mr. Murphy :

Q. What I want to get at is this, I am asking whether it was at either of these interviews ?—A. No.

Q. Do you not remember Mr. Butler pointing out to you that if you adopted force account the chief engineer could not certify to the estimates ?—A. No, not at that time.

Q. Not at that time ?—A. No.

Q. Well, did you have any subsequent conversation with Mr. Butler, where he pointed these things out to you ?—A. I do not remember having that.

Q. You do not remember having it ?—A. I do not think I have seen Mr. Butler since then at all until the other day when I met him on the street.

Q. Now, is it not a fact that on the occasion of one of these visits of which you have spoken that this matter of employing force account was discussed, and that Mr. Butler pointed out it was impossible for it to be adopted on this work ?—A. I do not think so.

Q. Is it not a fact that on one of these occasions when Mr. Butler was showing you it could not be adopted that he directed your attention to the terms of the contract and the specification ?—A. I do not believe it came up at all.

Q. You do not believe it came up at all ?—A. No.

Q. Will you swear it did not ?—A. Yes, to the best of my knowledge.

Q. That there was no discussion between you and Mr. Butler about the employment of force account ?—A. Yes, because when this interview took place with Mr. Butler I had not proposed to the chief engineer this suggestion of force account.

Q. That might quite well be.—A. Well, that fastens it in my memory, that makes me certain about it.

Q. That might well be, and again it might not be the fact; but even admitting that you had not proposed it to the chief engineer, that does not make an impossibility of your having discussed it with Mr. Butler ?—A. It does, as far as I am concerned.

Q. Now, Major, on your oath, are you prepared to swear you did not discuss the proposed force account when in Ottawa in July, with Mr. Butler ?—A. Yes, to the best of my knowledge.

Q. I am not asking you to the best of your knowledge, I am asking you will you swear you did not? You either did discuss it or you did not, and I am asking you if you did or did not?—A. I did not.

Q. You swear you did not?—A. I did not.

Q. You have told us you had no further interview with Mr. Butler until you saw him here lately?—A. Yes.

Q. And that is correct?—A. That is correct.

Q. Did you have any correspondence with him?—A. Yes.

Q. On the subject of what?—A. I do not know whether I wrote to him or he wrote to me.

Q. Have you the letter he wrote to you?—A. No.

Q. Where is it?—A. I do not know; I probably left it in Kenora.

Q. Have you any recollection what you did with it?—A. No, I have not.

Q. You have not?—A. No.

Q. Have you looked to see whether it was among your papers or not? I would like to have that letter produced if you have it, Mr. Hodgins?

Mr. HODGINS.—I cannot produce it if it is in the Kenora office.

Mr. MURPHY.—He says he doesn't know whether it is there.

A. I have not looked for it.

Mr. MACDONALD.—Was it a public letter written to the Chief Engineer of the Railway Department?

Mr. MURPHY.—It was written by Mr. Butler to him.

A. It was a private letter.

Mr. MACDONALD.—Mr. Butler has a press copy of it, I suppose; he can produce it.

By Mr. Murphy:

Q. Well, what about your letter or letters to Mr. Butler?—A. I do not remember what I wrote to Mr. Butler.

Mr. HODGINS.—Mr. Butler has some official connection with the Transcontinental?

Mr. MURPHY.—Yes.

By Mr. Murphy:

Q. And about Mr. Butler's reply, you do not know?—A. I do not know what became of that; possibly it is in Kenora.

Q. Do you recall whether that correspondence was on the subject of classification, force account, or any of these matters covered by this inquiry?—A. I think that letter was about that conversation with Mr. Grant. I think he said he had seen Mr. Grant and that Mr. Grant denied it—something of that kind. Whether I wrote to him or not after that, I do not remember; possibly I did write to him, and say that I was sorry he was taking Mr. Grant's word instead of mine.

Q. The prior correspondence that you speak of, would that be copied in your book at the office?—A. I do not think so; it was a private letter to me.

Q. It would not have been copied?—A. No.

Q. Was it on the subject of classification or force account?—A. I do not remember whether that was in the letter or not.

Q. Do you remember any other correspondence?—A. I do not.

Q. Do you remember seeing any other engineer or engineers while here at that time?—A. No.

Q. Then, you have told us about the conversation which you had with Mr. Grant, and you referred to it again here this afternoon, in which you alleged that Mr. Grant said the commissioners wanted the contractors to make money?—A. Yes.

Q. Who was present when that conversation took place?—A. No one.

Q. If Mr. Grant denies that statement, whose recollection would you say was the better?—A. Mine.

Q. Yours, why?—A. Well, my memory is all right if a man makes a statement like that to me.

Q. You have just corrected an error a few minutes ago about that cut down at La Tuque, would you be mistaken about this conversation as well?—A. No, sir.

Q. You have told us about conversations with Mr. Reid and Mr. Young that they do not remember anything about.

Mr. HODGINS.—We have not heard from them yet.

Mr. MURPHY.—Well, we will hear from them and all about it.

By Mr. Murphy:

Q. Mightn't you be mistaken about Mr. Grant?—A. No.

Q. You are sure of that? At your conversation with Grant he made that statement?—A. On my oath I swear he made that statement.

Q. And you told us that you had a conversation——A. I am so positive of that that I went to Mr. Butler to speak to him about it; I thought it was a very, very serious state of affairs.

Q. Well, perhaps some light will be thrown on that by this letter of yours to Mr. Butler, and we will resume this when we get a copy of it. Then you stated that Mr.

Grant told you that down at La Tuque the classification there was originally 30 per cent, and that he, Grant, had raised it to 80 per cent, and that when the Grand Trunk Pacific engineers kicked it had been raised again to 86 per cent?—A. Yes.

Q. Are you serious about that?—A. Yes.

Q. Do you mean to say, on your oath, that Grant ever made any such statement to you?—A. On my oath, he made that statement.

Q. If Grant denies that, who is the committee to believe?—A. Me.

Q. I see. Did you make any record of it at the time?—A. No, I made no record; it was a startling enough statement to fix itself in my memory.

Q. It was so startling that you remember it?—A. And, Mr. Murphy, you can take that up and see, I presume, whether that statement can be carried out by the estimates, by looking up the original estimates and comparing them. Mr. Grant told me he was sent over to re-classify, and you can find out what time he was sent to do the re-classifying, that will show you.

Q. You do not vouch for the correctness of that statement, you are only telling us what Mr. Grant said to you?—A. You can find out—the estimates are there—whether they have been increased from 30 to 86 per cent.

By Mr. Carvell :

Q. You are referring to solid rock ?—A. I presume so.

By Mr. Murphy :

Q. If the estimates do not bear out this statement, Major—— ?—A. It does not make any difference.

Q. What is the committee to believe ?—A. It does not make any difference. He told me that.

Q. It is merely an issue between you and Mr. Grant as to whose veracity is to be accepted ? You have told us that when Mr. Grant made the statement about the commissioners wanting the contractors to make money, you went to Mr. Butler and discussed it with him?—A. I don't know whether I said that to him. I told Mr. Butler something of Grant's——

Q. Grant's statement ?—A. Grant's statement.

Q. Mr. Butler was not your chief at that time ?—A. He was a friend of mine.

Q. Why did you not go to your chief and tell him this statement that had been made by Grant ? Did you not think it was your duty to do that ?—A. It is a question.

Q. It is what ?—A. It is a question. I had a confidential talk with Mr. Butler about this.

Q. Could you not have made the same kind of confidential talk with your immediate superior ?—A. No.

Q. Now this statement was a very serious reflection on the commissioners, was it not ?—A. Exactly.

Q. That is the way you accepted it ?—A. Exactly.

Q. Well was it not your duty to go to the commissioners, or some of them, and discuss the matter with them?—A. Well I took the best course I thought I could take. I went to Mr. Butler and discussed the question with him and he said Grant should not have made this statement or something of that kind.

Q. He said what ?—A. Grant had no authority to make this statement.

Q. Grant had no authority to make any such statement. And that was told you on the occasion when you returned a second time to see Mr. Butler?—A. Yes, I either went to his office or met him in town.

Q. By the way, did you tell Mr. Butler about this alleged statement of Grant's that the classification in this cutting had been fixed at 30 per cent, then raised to 80, and when the Grand Trunk Pacific engineers kicked, raised to 86 per cent? Did you tell Mr. Butler about that ?—A. I don't remember.

Q. Did you ever tell that to any other engineer ?—A. Possibly, yes.

Q. Did they accept it as a credible statement ?—A. I don't remember.

Q. Now there is a discrepancy in your evidence-in-chief.

Mr. MACDONALD.—What time was this interview with Mr. Butler ?

Mr. MURPHY.—The last week in July. Mr. Grant's report was put in on the 23rd of July and the Major was asked to come down. He came down and put his report in in reply and that was dated 31st July. It was in that interval that he had these interviews. Is that correct, Major ?

The WITNESS.—That is correct.

Q. Now there is a discrepancy in your evidence-in-chief, Major, as to the time you were in the city on that occasion. You told us at one place, page 121 of the evidence, that you were here for two or three days before the board meeting ?—A. I am not certain about the exact number of days.

Q. Well, so that you may have the whole of your evidence on that point before you, at page 133 of the evidence there is a statement by you that you arrived probably the day before the 31st of July ?—A. Oh certainly. I wrote the report in Mr. MacPherson's office and it was typed in Mr. Lumsden's office.

Q. But you had been here for some days ?—A. I don't think—I forget now how long I had to wait.

Q. You don't remember exactly?—No. I know I had to wait because the——

Q. The board did not meet until the 1st August ?—A. The board was not there.

Mr. HODGINS.—Mr. Parent, Mr. Grant and Mr. Lumsden did not meet on 1st August.

Mr. MURPHY.—Yes, and the Major was at that meeting, or at the board meeting.

The WITNESS. I forgot the exact number of days I was here before the board met. I was laid up most of the time so that I could not go over to the office.

Q. In any event you were for a few days ?—A. A few days.

Q. And you drafted your report, which is dated 31st July, and you filed it ?—A. Yes.

Q. Then there was a meeting of the board on 1st August?—A. Yes.

Q. At which you were asked to attend ?—A. Yes.

Q. Mr. Grant I understand was present ?—A. Yes.

Q. And Mr. Lumsden ?—A. Yes.

Q. And you and Mr. Grant were interrogated by the commissioners ?—A. By Mr. Young. Mr. Parent went away.

Q. Mr. Parent went away ?—A. Mr. Lumsden said very little. The whole inquiry, was not conducted by the chief engineer, it was conducted by Mr. Young.

Q. The chief engineer was present ?—A. He was present.

Q. Do you remember what time of the day that meeting took place ?—A. In the afternoon.

Q. Do you remember what time ?—A. There ought to be the minutes. They took everything down in shorthand.

Q. Well I am told they did not ?—A. Oh yes, they did. There was a man in there who took it down.

Q. I am instructed they did not?—A. Oh, pshaw.

Q. Don't you remember Mr. Parent being there?—A. Yes, he was there and he went away.

Q. Don't you remember Mr. Parent asking questions while he was there?—A. No. He sat at the head of the table and Mr. Young at the foot of the table. Mr. Young started to question and then he apologized to Mr. Parent; he said that he was talking a lot and Mr. Parent said, 'it is in your district' or something of that kind and very soon Mr. Parent went out.

Q. You don't remember any questions having been asked by Mr. Parent before he left?—A. Everything was taken down in shorthand, the shorthand man was there.

Q. I am told you were mistaken as to that; it was not?—A. Oh, but I know.

Q. You and Mr. Grant were interrogated as to your respective reports?—A. Yes, I was interrogated on Mr. Grant's report condemning everything.

Q. And your report was in there at the time?—A. Yes.

Q. The chief engineer having taken a position in a letter which was produced here that there were statements in both reports he could not agree with and he would have to go up and see the work?—A. Yes.

Q. Was there any other decision than that arrived at on the occasion of that board meeting?—A. Yes, he was to go up and inspect the work.

Q. Yes?—A. That was about all I think.

Q. Anything else?—A. I cannot recall it.

Q. You cannot recall anything. There was a reference to the outcome of that, or rather to your appearance before the board, in the subsequent letter received from Mr. Lumsden. What was the nature of that?—A. About my not being out on the work enough?

Q. About your replies at that meeting not being satisfactory or your explanation?—A. Yes, a reference to my not being out on the work enough.

Q. Was that it?—A. Something of that kind. It was about the last letter I got from him.

Q. Now, speaking about the work on McIntosh's division, you have told us that you examined it twice and that the first examination was not a very thorough one?—A. The first time we had not the detailed estimates with us.

Q. Did you find out afterwards that according to specification material that had been classed as solid rock should have been loose rock and common excavation?—A. I went over it with McIntosh and I saw that it was as he had classified it originally and I told him he would have to change it.

Q. How long after the work was done did you make this examination?—A. Well, some of the work that was changed back into solid rock had been done according to my notes, put in the other night, in February, in the winter time. I would say probably six or seven months.

Q. That would be six or seven months before your examination?—A. Yes.

Q. How long prior to your examination had the rest of the work been done?—A. There was some work going on at the time.

Q. At the time?—A. Exactly.

Q. How long prior to your examination had the rest of the work that you were investigating at that time been done?—A. The principal thing that I was investigating, the change of loose rock and common excavation into solid rock, that had been done some time.

Q. How long?—A. There is a record in about it, if you produce that it will show.

Q. It is a matter that is admitted by all engineers, is it not, that it is practically impossible to tell the quality of work unless it is seen at the time it is done?—A. Who told you that, Mr. Murphy?

Q. I think you made a statement to that effect?—A. To tell the quality of the work.

Q. Yes, the classification of it?—A. No.

Q. Unless it is so palpably solid rock?—A. The excavation here was common excavation pure and simple, and the rock, loose rock pure and simple. Now, how long after that work had been done do you imagine it is impossible to tell whether it is solid rock or not?

Q. I am asking you?—A. Yes, but I am an engineer and you are not. You are asking me an engineering question. I say you don't understand that question.

Q. Very well, I will ask it again: is it a fact, or is it not, that you can take a cut which is not solid rock and go back after the work has been done and the slopes fixed and tell what the work that was originally taken out should have been classified as?—A. You say it is impossible to do that?

Q. I am asking you whether it is or not?—A. No. You can do it.

Q. You can do it?—A. Yes.

Q. Is that a rule you follow or a rule that is generally followed?—A. It depends altogether upon circumstances.

Q. That is what I understand?—A. You take me out a cut and test me upon it and I will give you an answer.

Q. You want to have a specific case?—A. Exactly.

Q. We will take you over a few later on, Major, and gratify you?—A. All right. Going down to Quebec? Going to take me down to Quebec?

Q. I don't know. We may probably be in District 'F.' You have told us that the August estimate came in with 1,100 yards of solid rock and no loose rock or common excavation and you stated, 'I changed, or had it changed back to what it had been previously.' That is to be found at page 137 of the evidence.' I changed, or it changed back to what it had been previously.' Who did the changing ?—A. One of the clerks in the office.

Q. Was it you?—A. No.

Q. Was it Heaman?—A. I gave the orders for it to be done.

Q. Who did it?—A. I don't remember.

Q. Was it Heaman?—A. No, he is not a clerk

Q. Well, who made the decision as to the change?—A. I did.

Q. You say: 'I changed or had it changed'?—A. You were so particular as to whether I did occasional scratching out myself.

Q. No, I beg your pardon. This is your own answer to your counsel?—A. I gave the order to have it changed. If I remember right, I had the estimates on my desk.

Q. Yes?

Mr. HODGINS.—It is mentioned there who did it.

Q. Yes?—A. And I saw the classification for those cuttings was still as it had been in July.

Q. Yes?—A. And I gave the order to have it cut out.

Q. Yes?—A. And put back to what it had been originally returned before July.

Q. I see?—A. I fancy Mr. Ruddick did it.

Q. Mr. Ruddick, not Mr. Heaman?—A. Oh, no.

Q. He did it, of course, under your direction?—A. Yes.

Q. Now, you put in, and filed as Exhibit 6, a copy of a letter written by you to Mr. Lumsden on the 14th September last, in which you set out your objections to the classification on part of McIntosh's work, and you embodied your objections in the charges which you have filed. Now, was that letter written in your office in Kenora, Major?—A. It was typed in Kenora. I took the notes on the work.

Q. The letter itself was written in your office in Kenora?—A. It was typed, compiled from notes I had taken up on the work.

Q. By whom was it typewritten?—A. Oh, I don't remember.

Q. You don't remember? Well, who did that work usually in your office at that time?—A. I forget.

Q. You forget?—A. Yes. I think there were three men who could typewrite there.

Q. Well, who were they?—A. I have forgotten the man's name; he was a stenographer. I believe he was a new man.

Q. He was what?—A. I think he was a new stenographer that I had got.

Q. You think he was a new stenographer?—A. There was one upstairs in the drawing office and this other man, Simonson and Colquhoun.

Q. This letter, you have told us, was written after you had been out making notes on the line?—A. Yes.

Q. Did you dictate the letter to the stenographer, do you remember?—A. I don't remember that.

Q. Or did you write the letter and give it to the stenographer to be copied?—A. I forget whether I wrote it out. It is a long letter.

Q. Yes, a long letter?—A. I took the notes. I forget whether I gave the notes to the stenographer or dictated them.

Q. Well, now, I will show you the original of that letter for you to see if you can recollect whether you dictated it or gave the notes of it to the stenographer?—A. Where is that document I put in, Form 4, the one that McIntosh sent me showing those changes—my copy of it? I think it is marked triplicate. It is a piece of foolscap (document produced and handed to witness). I made some of the notes on this as I went along the work and some of the notes in Bell's camp. Here are some of the notes I made (pointing to document).

Q. Yes, Major; but I am asking you whether the letter itself of September 14, 1907, Exhibit 6, was dictated by you or first drafted by you and the draft given to the typewriter to run off?—A. That I don't remember. I should imagine it was drafted.

Q. Looking at the letter which you hold in your hand, would you say that it had been copied in your letter-book?—A. It ought to have been.

Q. Does it bear any indication on the face of the pages of having been copied into the letter-book?—A. Part of it is manifold I should say (after examination). No, it does not.

Q. It does not?—A. No.

Q. And that would be a letter——A. That should have been copied, certainly.

Q. That would be a letter which would not appear in your letter-book, but of which you have had carbon copies, I presume?—A. Yes.

Q. Do you see anything on Exhibit 8 which enables you to recall the circumstances under which the letter was written?—A. (After examining document.) Yes, I think those are the notes, but I cannot read them very freely. Yes, those are the notes.

Q. The notes filed as Exhibit 8 form the basis of that letter of September 14?—A. Yes.

Q. A copy of which is filed as Exhibit 6? Well, can you tell us whether you dictated the letter or made a draft of it and handed the draft to your typewriter to run off?—A. I think I made a draft of it.

Q. You think you made a draft of it? Now, look at the letter more closely and tell us whether it was not run off by two different typewriters?—A. Yes, if it is not a manifold.

Q. Pages 1 to 3 look as if they had been done on one——A. On one typewriter.

Q. On one machine and the remainder of the letter on another?—A. Yes.

Q. And the last page bears your signature?—A. Yes.

Q. Now, do you recall the circumstances under which that letter was written?—A. No.

Q. You do not? Do you remember giving a draft of the letter to the typewriter to run off?—A. No, I cannot say that I remember that.

Committee adjourned until 4 o'clock to-morrow.

THURSDAY, June 4, 1908.

The committee met at 4 o'clock p.m.

The cross-examination of Major Hodgins resumed:

By Mr. Murphy:

Q. When the adjournment took place yesterday, Major, we were speaking of the letter in which you first formulated your objections to the classification on McIntosh's work, the letter of September 14, filed as Exhibit 6?—A. Yes.

Q. You told us that you had drafted that letter and handed the draft to be copied by some of the clerks in your office?—A. Yes.

Q. You recall telling us at a previous sitting that you had been out on the line just prior to that letter being written?—A. Yes.

Q. And you returned to Kenora on a Saturday, got the letter from Chief Engineer Lumsden on Sunday, and sent a telegram on Monday, the 16th September, which has been filed here?—A. Yes.

Q. You recall also telling us that you went to your office in Kenora on Saturday evening?—A. I don't remember, as I was saying in my evidence, the exact time I got back. I have not got the dates with me. If I could fix the date I left Bell's camp; but I don't know that.

Q. But you do remember, and so stated, that you got into Kenora some time on Saturday evening?—A. I think it was Saturday, yes.

Q. And by that fact you fixed the time upon which you received the letter from Mr. Lumsden notifying you of your dismissal?—A. Well, it was when I came down from that inspection. I had intended—first of all, I might say I had intended to go through from McIntosh's to Winnipeg river. I went on to Bell's camp, left McIntosh at Parson's camp and went on to Bell's camp the same night; and, instead of going through to Winnipeg river, I came down and went out by the Vermilion bay road. I have not been able to fix the date of the night I was at Bell's camp.

Q. What you said previously is reported at page 243 of the evidence (reading):

'Q. You haven't been able to fix the exact time of getting back to Kenora on Saturday, the 14th of September, but you do remember going to your office and getting some letters?—A. No, I am not certain whether I did go to my office; the office would be closed on Saturday afternoon, and I am not certain what time I got it.

'Q. None of your staff would be there when you got in?—A. No, they would not be there on Saturday afternoon.

'Q. And you know for a fact that it was Saturday afternoon when you got back to Kenora?—A. I left Canyon lake in the morning and rode down to Vermilion bay, and I think I had lunch there and waited for the train, but whether I came in on the mixed train or the express I have forgotten. If it was the express, I think the express got in about 4 or 5, and the mixed train would come in at any time about 8. I have forgotten now what time it was.

'Q. You have forgotten?—A. Yes.

'Q. At any rate, you knew there would be none of your staff in the office that afternoon?—A. No.

'Q. You did not reach Kenora until the afternoon?—A. I could not possibly.

'Q. And it may have been the evening; it all depends upon the train you took?—A. Yes.'

Now, are you able to fix the time upon which you went to your office on Saturday, 14th September, any more definitely than you were when you gave the evidence I have just read?—A. No. I have been unable to fix the date when I came down from Parson's camp. You read from a diary that I was up with McIntosh, on Friday, was it not, one night?

Q. No, I think the diary to which I referred you was for the purpose of fixing the date of the month?—A. Well, I have forgotten what time I came down.

Q. Well how did you fix Sunday as the date on which you received the letter of the 12th from Mr. Lumsden?—A. Well, in discussing the question that night—I have forgotten what night it was—I think I remember getting that letter on Sunday. If I remember right one of the men came over with the letter to me.

Q. On Sunday?—A. On Sunday, yes. I think it was Sunday.

Q. Perhaps a reference to your evidence at page 242 will help you to recall the date? (Reads) :—

'A. What is the date of the notice?

'Q. 12th September?—A. It would be the 15th or the 16th before I got the notice; it takes three days to come up there.'

'Q. If the 13th was on Thursday, as it was, and the notice bore date on that day, and was posted on that day, when would it reach Kenora?—A. On what day was it dated, the 12th?'

'Q. Yes?—A. About the 15th.'

'Q. That would be Sunday, the 12th was on Thursday?—A. Sunday, yes. It was Sunday or Monday I got it.'

'Q. Now do you remember when you actually received the notice?—A. What day was the 12th?'

'Q. Thursday?—A. Sunday.'

'Q. Sunday the 15th?—A. I got it on Sunday afternoon.'

A. I think that is right.

Q. You think that is right?—A. Yes, Sunday would be the 15th.

Q. And do you recall some person bringing you that notice on the afternoon of Sunday?

Mr. HODGINS.—What notice?

Mr. MURPHY.—The letter from Mr. Lumsden.

A. One of the men in the office.

Q. Yes, but I am asking you do you recall his bringing it to you? I take your answer to mean that it would naturally be brought to you by one of the men in the office?—A. Yes.

Q. But I am asking do you recall his bringing it to you?—A. I think so. It would be Simonson.

Q. You think it was brought to you by Simonson?—A. Yes.

Q. He was one of your staff?—A. He was one of the staff and I think used to go for the mail.

Q. Is he one of the men you mentioned as being a typewriter in the office?—A. Yes, he was the secretary.

Q. Well then you would have got back to Kenora some time the previous evening, Saturday evening, if the letter from Mr. Lumsden was brought to you some time on Sunday afternoon?—A. Yes, if I left there on the—I would like to fix the time I was up in Bell's camp. I don't remember the date, and I think, as I said, it was on Saturday that I got in. I can hardly recall the days of the week.

Q. In giving your evidence at a previous sitting you remembered that you left Canyon lake in the morning?—A. Yes.

Q. And rode down to Vermilion Bay?—A. I came with Bell in the launch to Parson's camp, the morning I left Bell's camp when I decided to go back.

Q. Yes?—A. That would take me down, the launch would take me down to Parson's camp. Then I got a horse from Parson and rode into Vermilion Bay, about 17 or 18 miles.

Q. Yes?—A. And took the train from there.

Q. And as I understand from your former evidence got into Kenora some time on Saturday evening?—A. I presume so, I forget what train I took.

Q. We had all that before but you said you could not get in, in any event, until the evening?—A. Yes, I think the express passed Kenora going west about 4 and the mixed would come in about 8. What I am trying to remember is what time they passed Vermilion Bay.

Q. Perhaps I can mention an incident that would help you to fix the time of your arrival on that Saturday in Kenora. You have, I understood, or you had in your office, in Kenora an accountant named Dot?—A. Yes.

Q. Do you remember one of his children dying about that time?—A. I remember one of his children dying, I have forgotten the exact date.

Q. Do you remember that you desired to go to the funeral and that the funeral took place that Saturday you arrived in Kenora but prior to your arrival, and that you expressed regret at not being back in time for the funeral?—A. Yes, I think that is so. I was not at the funeral. Was that on Saturday?

Q. So I am informed?—A. Yes, I remember one of his children dying, but I had not connected it with that trip.

Q. Well now does that help you to fix the time on that Saturday afternoon when you arrived at Kenora?—A. No, I can't say it does. I don't connect the two circumstances at all.

Q. But you are clear about having received the letter from Mr. Lumsden on Saturday, 15th September?—A. Yes, apparently so. It can easily be corroborated by Simonson or whoever was——

Q. Yes, but I am asking you now, Major?—A. I think so, yes.

Q. Are you sure whether you went to the office the previous evening which would be Saturday the 14th?—A. I cannot say, I cannot remember. I used to go over at odd times very often in the evening.

Q. How long would you have been absent from Kenora prior to Saturday, 14th September—a matter of days?—A. Let me see. I went out from Kenora one day with Heaman and I went up to McIntosh's camp and got there that night. Then I think the next day we went down to Pearson's camp and I spent that night at Bell's and I discussed classification with Bell and took some further notes and then I decided to come out. That would be one, two, three, I think it was three days.

Q. And as you have stated at page 243 of the evidence (reads):

'Q. I left Canyon lake in the morning and rowed down to Vermilion bay and I think I had lunch there and waited for the train, but whether I came in on the mixed train or express I have forgotten. If it was the express, I think, the express got in about 4 or 5 and the mixed train would come in at any time about 8. I have forgotten now what time it was.'

A. It would have been one of those trains.

Q. That you arrived on?—A. Yes.

Q. So that you would be in Kenora at either 4 or 5 in the afternoon or 8 in the evening?—A. Yes.

Q. And as you have told us there would be none of your staff at your office on Saturday afternoon?—A. No.

Q. So consequently there would be no work done there?—A. No. work. They did not come down to the office Saturday afternoon.

Q. Well then, major, I would like to explain how it is that on an afternoon that you did not reach Kenora until either 4 or 5 in the afternoon or 8 in the evening, and when none of your staff would be at your office, you wrote a letter dated September 14th, 1907, which is the date of which you have been speaking?—A. That would be the date I took the notes. You see I started this letter in Bell's camp.

Q. Yes, but you have told us that letter was written in Kenora?—A. Yes, it was typed in Kenora. It was a compilation of notes taken on the work.

Q. I understand that, but I am asking you how could that letter have been typewritten on Saturday, 14th September, when you did not get into the office, in any event, earlier than between 4 and 5 and perhaps not until 8, and you have told us none of your staff would be in the office that afternoon and when the letter was written you said by two of the clerks in your office?—A. Possibly, there are two different inks used.

Q. I want to know why that letter bears date of 14th September when you yourself make it plain it could not have been written on that date?—A. It was that morning I took notes.

Q. I am not asking you when you had taken notes, you have explained all that?—A. Can you explain what difference it makes?

Q. I am not in the witness box, major, I am asking you?—A. According to the way we have been figuring now that is the date I left Bell's camp.

Q. Which, the 14th September?—A. The 14th September.

Q. That makes the situation all the worse?—A. In what way? How does it make it worse?

Mr. HODGINS.—There is no worse situation that I see.

The WITNESS.—I don't see any worse situation. If I took notes for a letter, start to draft a letter and have it typed, does it matter whether I date the letter from the time I took the notes or from the time it is typed?

Mr. Carvell:

Q. I suppose the substance of all this is, the letter was ante-dated?—A. Actually written on Monday and possibly dated back to Saturday? Is that the idea?—A. Possibly.

Mr. BARKER.—That is not ante-dated.

The WITNESS.—That is not ante-dated. If I am out on the work—the fact of the matter is when I got to Bell's camp I had not intended to come out and I heard something from Bell that changed a whole lot of my ideas.

By Mr. Carvell:

Q. Am I not right in assuming that this letter was actually written on Monday and dated back to Saturday?—A. Possibly. Let me see the date it was received? (After examining letter). Received on the 18th. This is a statement of fact, whether written on that day or typed——

By Mr. Murphy:

Q. Oh, no, you have given us absolute proof that it could not have been typed in the office at Kenora on the 14th. You draw a distinction between a letter that is typed and written?—A. What distinction do you draw?

Q. I am not drawing a distinction, I am asking you a question. You have given us proof it could not have been written on the 14th in your office at Kenora because you were not there——A. Well——

Q. Allow me. You have shown you were not there——A. Yes.

Q. Until late in the afternoon, in any event, and none of your staff were there?—A. Yes.

Q. Even if you had been there it could not have been typed. Now, I want to know why this letter is dated Kenora, September 14th, when obviously it was written after that date?—A. Typewritten.

Mr. HODGINS.—Typed you mean.

The WITNESS.—Typed on a machine. When I got up to Bell's camp—that is the date I took the notes—when I got to Bell's camp, I had left McIntosh the night before with Heaman at Parson's camp and I had objected to his classification, and I told McIntosh, and I also told Heaman, that they were both to go back over the work and reclassify, and I expected the classification in the September estimate to be satisfactory to all parties concerned. At the end of McIntosh's work, at the end of the piece I had been inspecting, there was a sand cut and that cut was on Bell's residency and it was late in the evening when we got there. But I could not understand the classification that McIntosh gave me, some of the August classification that was there. I think he said that Bell had made the classification. I found there was a fill, a cutting. To the east of this fill was a rock cutting covered with a stripping, a certain amount of stripping, which had been taken out some time previously. I forget the number of yards in that stripping. That number of yards had been returned previously as loose rock, it had been in the July estimate—I think it was 2,000 odd yards—and the July estimate had been put into solid rock. When I got across to the other side I found that in the sand cut a smaller number of yards of sand had been returned as loose rock. If I had that exhibit I had the other day with some of these notes on and if I had a profile here I could explain it. In this sand cut I found there was a certain number of yards of sand had been returned as loose rock.

Q. Pardon me, Major, I don't want to interrupt you if you are answering the question about the date, but up to the present I cannot see what all this refers to. I cannot see how all this refers to the subject of this letter?—A. What question

do you want answered, the date? I started to write the letter when I got to Bell's camp with the intention of forwarding it on and I changed my mind, and did not continue my trip west but came out.

By Mr. Hodgins :

Q. What did you do with the letter ?—A. That is the bulk of it in the letter there. I had taken all these notes previously. The fact of the matter is I could have dated that letter—these notes on the back of this letter were taken, I think, on the day before.

By Mr. Murphy :

Q. Well then, this letter, though dated September 14th, I understand you to say in reply to Mr. Carvell was written on Monday, September 16th ?—A. Typed

Q. Typewritten ?—A. Let me see what date it was received in Ottawa and we can determine what date it left my office ?

Q. September 18th ?—A. It is a long letter. September 18th. Yes, possibly it was.

Q. Do you remember whether it was written on the 16th or not ?—A. I cannot recall it just now.

Q. You cannot recall it now. In any event it cannot have been written or typewritten on the 14th?—A. Oh typewritten?

Q. It cannot have been typewritten on the 14th?—A. Cannot have been typewritten on the 14th.

Q. And prior to this being written you had received notice of dismissal from Mr. Lumsden on Sunday ?—A. Oh I see.

Q. Is that not a fact ?—A. No. What does the letter contain ? Notes ?

Q. You know what the letter contains ?—A. Did I keep on the line after I received Mr. Lumsden's letter ?

Q. I cannot tell you, Major, you know whether you did or not ?—A. I did not.

Q. In any event this letter, the typewriting of this letter, succeeded the receipt by you of the letter from Mr. Lumsden notifying you of your dismissal?—A. Exactly, according to these dates.

Q. According to these dates. Well now why did you not date this letter September 16th when it was being typewritten ?—A. Why should I ?

Q. Because that is the date it was typewritten, that is the date it was sent ?—A. I want to know what reason you had for dating this letter September 14th when it was not typewritten until September 16th ?—A. Because I took the notes on that date.

Q. You have told us you took the notes previous to September 14th?—A. No, pardon me. I started that letter, started to send that letter on from Bell's.

Q. Now is it not the fact, Major, that the sending of this letter, the typewriting of it, as you call it, on September 16th was due to the fact that you had received the letter from Mr. Lumsden the day before ? Is not that the fact ?—A. I don't know.

Q. Will you swear it is not ?—A. I don't see that it will make any difference.

Q. I am not asking you that ?—A. When was I relieved ?

Q. I cannot answer that question, Major ?—A. No.

Q. What is your—— ?—A. My answer is that I took the notes, I started to draft the letter on the date given there.

Q. But you took the notes prior to September 14th did you not ?—A. Some of them.

Q. Yes ?—A. You don't start to write your letters before you get your notes finished ?

Q. Well I don't know what your practice is, I only know that you have dated the letter on a date on which it was not typewritten and I am asking you the reason why?—A. Well I am endeavouring to explain.

Q. Now is it not the fact that you dated the letter September 14th, although it was typewritten on Monday, September 16th, simply because in the interval you had received a letter from Mr. Lumsden containing notice of your dismissal?—A. I cannot say that.

Q. Is not this letter of September 14th, filed as Exhibit 6, the first letter of the kind that you had sent in finding fault with this work?—A. Oh dear no.

Q. Are there any other letters?—A. I have found fault with the classification in previous letters, I think, if you will look them up.

Q. Is this the first letter, the letter dated September 14th, in which you specifically found fault with this work on McIntosh's division?—A. Specifically?

Q. Yes?—A. Yes.

Q. And was it not just about that time, or a few days prior to that, that McIntosh had taken away those questions that you had given him to answer about Grant and had not signed them and had not returned them to you?—A. He was to type them out and send them down to my office.

Q. And he had not done so?—A. No.

Q. And if I am not mistaken there is a letter from you here explaining that you were unable to get over to see him?—A. Yes.

Q. That all happened about the same time?—A. All about the same time. I don't know what the date of that letter was.

Q. Now, the notes to which you have just been referring, I think Exhibit 8, were spoken of in your examination-in-chief, and reading from them you said that they were made between the 12th and the 14th September, and that you decided that 400 yards of material mentioned in your notes should be loose rock?—A. What station was that, 4,009?

Q. I don't remember the station, but I have the statement?—A. There is one note here (referring to exhibit) 400 yards of loose rock was turned into solid rock and I turned it back into loose with the note 'Too much waste.'

Q. And that also is mentioned in this letter of September 14th?—A. Yes.

Q. Written under the circumstances we have just been speaking of. Now, further on in your examination at page 145 of the evidence, you stated that you told McIntosh to reclassify the work and that you would not make the classification?—A. Certainly not.

Q. Was not that your duty?—A. Pardon me, no.

Q. Not your duty?—A. Indeed no.

Q. Why not?—A. It is not the duty of the district engineer to make classification, it is the duty of the resident engineer to make classification and consult with the division engineer.

Q. Then when McIntosh did what you told him to do why did you change the classification?—A. Because it was wrong.

Q. Well then were you not making the classification?—A. No, I was correcting it.

Q. You were correcting it. Very well, why did you not correct it afterwards?—A. Do you understand how classification is made?

Q. Well, I have been getting some information from you, Major, about it, but I really don't know that I understand it?—A. I don't think you do.

Q. Well, I am afraid that we are not making progress?—A. It takes a long time to make it clear.

Q. I don't think that I really understand it yet?—A. I don't think you do, it takes a long time to make classification.

Q. It did in District 'F,' evidently.—A. Do not make such remarks about District 'F,' please, because you do not know.

Q. Was it not your duty to give directions to your subordinate engineers?—A. Exactly.

Q. Why didn't you do so?—A. I did do so.

Q. Your instructions consisted merely in telling him he would have to re-classify?—A. Exactly.

Q. But you gave him no assistance nor instructions how to do it?—A. Wouldn't you, under those conditions, if the man had originally classified certain materials, common excavation and loose rock, and you went on the work and saw it was common excavation and loose rock and not solid rock, would you not tell him to do that?

Q. Any man could tell him to do it over again.—A. When this classification was not satisfactory.

Q. Yes, but you gave him no assistance beyond telling him to reclassify?—A. It is not the duty of the district engineer to do so; if you had a man in your office, Mr. Murphy, and he drew up a deed or a will, or something like that, and did it wrong, and ought to have done it right, you would tell him to go and do it properly, if you knew that he was capable of doing it right?

Q. I do not know that I would, I think I would do it myself.—A. Well, it is a simple thing to draw up a document, of course.

Q. It may be, but your illustration is not very practical just now, that is my idea about your work——A. Yes, but you are a lawyer and not an engineer.

Q. I may tell you that we are all at that disadvantage, the committee and myself. —A. Any one of these engineers will tell you that if you are going to reclassify a certain cutting you must have all the information you can get out of the men on the work, you must examine the resident and division engineers, and must look at the cuttings, you may have to make measurements and all that, and how much time has the district engineer to do that if he has to go over 11 or 12 miles?

Q. It seems to me that you are furnishing the very best proof that McIntosh's classification was right, you say you hadn't the time to go over these things yourself? —A. Surely a man of my experience can tell whether it is right or wrong.

Q. What data have you on which to tell that?—A. The data is in the back of my head.

Q. And without being out on the work you can correct this man, whom you told to reclassify, and who was out on the work and knew all about it?—A. Yes, I told him right, those were correct instructions.

Q. To re-classify?—A. Yes, that the classification was wrong, I thought it was wrong, I knew it was wrong, and it had to be corrected.

Mr. Hodgins.—I think I should call attention to the letters of September 7and 9, from Mr. Hodgins to Mr. Lumsden protesting against the classification.

Mr. Murphy.—I had those in mind, in which he said he specifically drew attention to the matter.

Mr. Hodgins.—He specifically drew attention to it in those letters, Exhibit No. 11 and 12, on page 152 and 154 of the evidence.

A. I told Mr. McIntosh to go over that work again, to take all the time he wanted to re-classify it. I think, Mr. Murphy, the chief engineer ought to be here and discuss this question with me.

Q. Now in this dispute between you and Mr. McIntosh, Major, did the interpretation——

Mr. Hodgins.—What dispute do you refer to?

Mr. Murphy.—About this work.

Mr. Hodgins.—I haven't heard any dispute.

Mr. Murphy.—There was a difference of opinion, the Major has told us about that.

By Mr. Murphy:

Q. In this difference of opinion between you and Mr. McIntosh about the classi-

fication of the work on his division did the question of the interpretation of the specifications come up?—A. Yes, I presume so.

Q. Did the question of the interpretation of clause 33 come up?—A. What is clause 33?

Q. (read):

"Grading will be commonly classified under the following heads: 'solid rock excavation,' 'loose rock' and 'common excavation.'

A. Yes, that is all we had to go on.

Q. Now, did the interpretation of clause 34, which is as follows:

'Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which, in the judgement of the engineer, may be best removed by blasting.'

Was the interpretation of that clause in issue between you and Mr. McIntosh?—A. No.

Q. No? Was it applicable to the dispute or discussion, or the difference of opinion between you?—A. At that time, no.

Q. Not at that time?—A. There was no question of the word 'masses' in those days. Will you bring down the file of documents with the chief engineer's opinion——

Q. Just a moment, we will get ahead with these things faster by proceeding more regular. Then I direct your attention to clause 35 of the specifications. (reads):

'All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials, that cannot in the judgment of the engineer, be plowed with a 10 inch grading plow, behind a team of six horses, properly handled, and without the necessity of blasting, although blasting may be occasionally resorted to, shall be classified as loose rock.'

A. Yes.

Q. That is loose rock?—A. Yes.

Q. Was the interpretation of that clause in issue between you and McIntosh?—A. No.

Q. There was no issue between you?—A. The transferring of common excavation and loose rock into the column of solid rock.

Q. Well, admitting that to be the case, then some of these clauses in the specification must have been an issue, McIntosh must have had one opinion about the interpretation and you must have had another?—A. No, we all had the same opinion as to the interpretation of these specifications.

Q. Was there any solid rock in question?—A. No——do you mean solid rock in ledges or boulders?

Q. I mean in this discussion between you and McIntosh?—A. We did not discuss the specification.

Q. You ultimately get back to the specification on which you entertained you say, the same opinions.

By Mr. Macdonald:

Q. What is the answer to that question, was there any issue on the solid rock?—A. No. Mr. McIntosh was defending this transfer more on account of the cost, I think, if you look up some of my notes you will find——

Q. Was this question of solid rock an issue between you and McIntosh, that is what I would like to know?—A. No; he defended his classification in that way, and said it should have been returned before. I said: 'Why?' and he said: 'Well, it costs as much as solid rock,' or words to that effect. I understand now, from the second opinion given by Mr. Lumsden, that it would, or might, come in the class of solid rock. I have not read Mr. Lumsden's opinion very carefully.

Mr. BARKER.—We do not want to know what at present is Mr. Lumsden's opinion—just give your own evidence.

By Mr. Macdonald:

Q. Was that a question at issue between you?—A. You see that is where the complicated operations of the inquiry come in; we were working under one interpretation in those days and the engineers are working under another interpretation at the present time.

By the Chairman:

Q. Do you mean to say you had a different opinion as to the allocation of the classification?—A. No.

Q. Because it seems to me it all depends upon the interpretation given to this clause of the specification?—A. If I had a knowledge of what is contained in certain documents in there it would have altered the question entirely, or might have; I have not examined the work with these new ideas in my head, and I have not quite got the new ideas in my head either.

By Mr. Murphy:

Q. Taking your own explanation now——A. We have to work back and discuss this question as it appeared to both McIntosh and myself in those days.

Q. Taking your own opinion, it was one of the usual differences of opinion between engineers?—A. It was an unusual difference of opinion.

Q. Unusual, do you mean, in your case?—A. No, in McIntosh's case.

Q. But usual in yours?—A. We would have had to have gone over the whole line and put all the stripping into solid rock in every other engineer's division.

Q. You say that had been done?—A. No, it would have had to be done.

Q. I do not comprehend your answer?—A. This was described as stripping which is not solid rock, or it was not in those days, and it was not customary to return it as solid rock. If it had been returned in portions of one division as solid rock it ought to have been returned on the other four or five divisions.

Q. Now, Major, will you give us your interpretation of that clause 'solid rock,' what you understand by that?

Mr. Hodgins.—I submit that would be governed entirely by the specifications.

Mr. Murphy.—I am asking him his opinion on it; it is a matter of interpretation.

A. (Reads):—

'Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.'

That is, solid rock in ledges and solid rock in masses, in my opinion.

Q. That is your interpretation of clause 34?—A. Yes; I would not include cemented gravel or cemented boulders, unless they were rock.

By the Chairman:

Q. Then you do not agree with the interpretation given by that clause there?—A. Which clause?

Q. Clause 34, is it?—A. That is my interpretation of it.

By Mr. Murphy:

Q. How do you interpret that 34?—A. Solid rock will include all rock found in ledges or masses of solid rock.

Q. That is the only interpretation you give?—A. Yes, sir.

By Mr. Carvell:

Q. You would add to that boulders, wouldn't you?—A. A boulder would be a mass of solid rock.

By Mr. Barker:

Q. It always means solid rock, always ?—A. I take it that is the whole thing, the word there is solid rock.

By the Chairman:

Q. I want to know what is your interpretation of this clause 34, 'which, in the judgment of the engineer, may be best removed by blasting'; what do you say is the interpretation of that?—A. I say it referred only to solid rock—to solid rock, boulder or mass, or solid rock in ledges.

By Mr. Barker:

Q. It must be a boulder of a particular size?—A. It must be rock.

By Mr. Murphy:

Q. What about boulders in mass, Major, would you consider they come under that clause, in your interpretation of that clause?—A. Boulders in mass?

Q. Yes?—A. Well, if the individual boulder was a cubic yard, I would say it was solid rock; if it was not, I would not.

Q. It would have to be a cubic yard or over?—A. A cubic yard or over.

Q. Now, would your definition include conglomerate rock, or what I am informed is called 'plum pudding stone'?—A. That is a rock that is not often found in this country. I have not seen any of it on the district yet.

Q. I am not asking you that. I am asking you about the interpretation you put upon it; would it include that?—A. If it was rock, it would. That is what I consider 'plum pudding rock,' it is the same as rock cemented together, fused together. I do not know how to explain it in the geological term, but it would be rock, two or three smaller boulders and whatever has cemented it together, it would be rock.

Q. Then if it were of that character it would be included in your interpretation of that clause?—A. It would be rock, but I have never seen what I call plum pudding rock, only an occasional boulder there.

Q. That is you have not met it on District 'F,' is that what you mean?—A. Not in this country.

Q. Would your interpretation of Clause 34 include the detached rock in mass over one cubic yard?—A. Oh, yes, that would be rock.

Q. It would be?—A. Yes, no matter whether it is detached ledge or detached ledge rock in mass over one cubic yard?—A. Oh, yes, that would be rock.

Q. It would be?—A. Yes, no matter whether it is detached ledge or detached boulders, if it is over a yard.

Q. Would your interpretation of Clause 34 also include rock in mass, I believe you call it cemented rock of over one cubic yard?—A. There again it has to be measured, the rock in the mass would have to be measured.

Q. Well, whether measured or dealt with in any other way would your interpretation include it?—A. Well, the individual pieces of rock there would have to be measured, if they were over one cubic yard—but you are giving me a catch question, and in order to get down to this properly you have to be out on the work, and when you come up to the problem you have to solve it.

Q. You can give us your interpretation of the clause in the specification without being out on the work?—A. I am giving you the literal interpretation, I know I have not read these legal opinions very closely.

Q. I am asking you for an engineering opinion, and you have told us one problem you met with on McIntosh's work, and when you met it you ran away from it and didn't decide it?—A. I decided it.

Q. You told him to reclassify it, and you have told us that the men on the work were the best qualified to do that?—A. There was no running away from it, he is the man who signs the estimate, I had not seen them before I got them from him——

Q. There was a problem, as you phrased it, there?—A. There was no problem.

Q. What was it, a difference of opinion?—A. It was ordinary practice.

Q. Well, then, would the interpretation that you have given us of Clause 34 include shale rock, 'which in the opinion of the engineer can best be removed by blasting'?—A. There is no shale in that country.

Q. I am not asking you about the country, but about the interpretation of the specification and what it covers?—A. Shale is of different degrees of hardness, I think myself shale ought to go in a different classification. I have seen shale rock that could be removed by a pick.

By the Chairman:

Q. You say there is none of that class of rock in your district, do you know whether there was any in Quebec district or not?—A. No.

Q. Have you gone over it enough to find out?—A. I have only seen a small portion of it.

Q. So that you cannot say whether there is any in Quebec or not?—A. I do not know anything about Quebec; from what I know of this work it is mostly of granite.

By Mr. Murphy:

Q. I am told that there is rock of this character found in a few places?—A. I haven't seen it; in some of the clay cuts I have seen a few layers of mud that thick (illustrating) but there are various shales, all sorts of shales you will find in different parts of the country.

Q. Does your interpretation cover this kind of shale rock that I have asked you about?—A. What is that?

Q. 'Which in the judgment of the engineer can be best removed by blasting'?—A. Yes, if it requires blasting.

Q. Your interpretation of Clause 34 would include that?—A. Shale is rock but I never came across any up there.

Q. You never came across any you say, when there?—A. Not in rock, in layers.

Q. I am informed it has been met with in considerable quantities when they went down a piece?—A. I have not seen it.

By Mr. Macdonald:

Q. Would you be good enough to tell us as to whether or not your definition of that clause in the specification is your view of its meaning, as you understand it now, or whether that was the view you entertained in August and September last.—A. Well, that is my view of it now, if I were under the chief engineer I would have to accept his view, that is a different matter.

Q. That is your view now, but it is not the view you entertained in August last?—A. Yes, this has always been my view.

Q. I noticed yesterday you said that since you had read the legal opinions upon this question of the construction of the specification you had considerably modified your views?—A. Well, not my interpretation of this clause; when one reads the opinion of legal men in this country, eminent counsel, we should go into the question that they have raised and study it.

Q. In what respect?—A. I just glanced over them, I have not read them thoroughly.

Q. In what respect have your views been modified as a result of the inspection of those opinions?—A. My views have not been modified, but the question is a different one now. When I was there the opinion of Mr. Lumsden, whose opinion is supreme on the question of interpretation, appeared to be the same as my own, that I have given just now; that was his opinion as far as I understood it. The question had never come up, this word 'mass' has only come up since I was there, and since then Mr. Lumsden has changed his opinion and given possibly the opinion

that Mr. Murphy is reading from, therefore all the engineers on the road must be governed by that opinion now, whether they think it right or wrong.

Q. Do I understand you to say that these subordinate engineers at that time took the view that Mr. Lumsden did, and these local gentlemen took another ?—A. There was no question of that, the argument wasn't even raised, as I understand it; now the question of 'mass'——

Q. Now the question of mass, but you said the whole trouble was classification, but apparently these gentlemen, Mr. Lumsden and the legal gentlemen, entertained one view and you entertained another ?—A. No, Mr. Lumsden, at the time I was there, entertained the same view as I did; the whole question of classification is since I was up there.

Q. Then it is not correct to say you have modified your views ? In any respect, that is what I wanted to ask ?—A. No, I am talking yesterday——

Q. You said yesterday, 'When I wrote that letter I had heard there was some dispute about the wording of the specification, but I had no knowledge of any legal opinions on it—since I have read these legal opinions I have considerably modified——

'Q. Modified your views ?—A. My views,' Yes—I have not modified my views of the interpretation, it is a very interesting question and I would like to see it argued out.

Q. This is really a question of engineering after all ?—A. Yes, it is, it practically amounts to this, it is a question of the meaning of the words and phrases in that specification; I noticed that some of the legal opinions said, 'May be best removed by continual or occasional blasting.' There is no reference to 'continual or occasional' blasting in this specification.

By Mr. Barker :

Q. Did McIntosh in making his original estimate agree with you also ?—A. Oh yes.

Q. In the original return ?—A. There was no difference of opinion between McIntosh and I——

Q. Just answer my question, please. In his original return did he adopt the same views of classification as you did ?—A. Yes.

By Mr. Macdonald :

Q. Did he always do that ?—A. I presume so, this was the first time I discovered he had not.

Q. Which was the first time ?—A. Well, the transfer of so many yards of common excavation and loose rock.

Q. Well, what date was that ?—A. July.

Q. Have you personally inspected the part of the work where this dispute arose in July ?—A. No, in July—I was there in July—but it was before that estimate was changed. I was down in Quebec the most of the month, I was not out on the work at all that month.

By Mr. Murphy :

Q. Do you know Mr. McIntosh's interpretation of the specification ?—A. Now ?

Q. Yes ?—A. No, I have not asked him. His argument for making the transfer was on account of its costing as much as solid rock.

Q. When you said, in answer to Mr. Macdonald, that your interpretation had agreed with his I assumed then that that was based merely on the fact that there hadn't been any difference of opinion between you.—A. The question had never come up.

Q. But you did not, at that time, as a matter of fact, know what his interpretation of the specification was, through having asked him.—A. We did not discuss it. He raised that classification and put that material into the solid rock column,

not on these specifications, but because he thought it ought to go in as solid rock, fer was on account of its costing as much as solid rock.

By the Chairman :

Q. Then he must have differed with you on the interpretation of the clause as of specification ?—A. We never brought it in as solid rock.

By Mr. Murphy :

Q. You never discussed the application of this clause of the specification ?—A. To that particular piece ?

Q. With McIntosh ?—A. It simply was not solid rock. The only argument he could put up was not as being solid rock but that it was costing about as much as solid rock.

Q. I am asking you did you, or did you not, discuss this clause of the specification with McIntosh ?—A. Yes, all the engineers would come in—I can remember no particular time—but they often come in and we would discuss things generally, but I could not quote particular instances.

Q. Did you ever give McIntosh your interpretation of this clause of the specifications ?—A. Possibly, yes.

Q. Well, did you ?—A. I fancy so, if the question came up.

Q. Did you or did you not?—A. I cannot remember any particular time, but I am pretty certain in saying yes.

By Mr. Macdonald:

Q. Was it in writing?—A. I do not remember it was in writing.

By Mr. Murphy:

Q. Did you give any interpretation to any other of the engineers in writing?—A. I say it was quite common for the engineers to ask questions—that is three years ago, and we discussed endless questions.

Q. I am asking you if you did give your interpretation in writing?—A. I do not remember.

Q. Would your interpretation of clause 34 include small rock, cemented, requiring blasting?—A. You mean cemented gravel?

Q. Small rock I was asking you about?—A. Small rock. What size of small rock?

Q. Boulders?—A. What size would you include?—A. I would include the boulder if it was over a yard as solid rock; if under a yard it was loose rock.

Q. Then the consideration that would influence you in that case would be the size?—A. Yes, it mentions a yard measurement. It gives a yard specifically, says it requires the measurement of one cubic yard.

Q. That is what influenced your interpretation in that case?—A. Yes. You see as I told you yesterday, the specification for loose rock is too severe in my mind and there should have been on that work in district 'F'—the character of the country really demanded a fourth price material in there. That loose rock specification was—

Q. Was that the one which you covered by what you say about 'material best removed by blasting'?—A. Well it would have been—I never went into the excavation.

Q. Or would you call that material? What material would you say that would apply to 'material best removed by blasting'?—A. Well, you see all material is best removed by blasting. In some cases it is best to—in an earth cut for instance it is best to put in a blast to shake it up; it saves picking.

Q. In such a case as that would your interpretation of clause 34 cover it?—A. No.

Q. Well, does your explanation go to this, Major——?—A. What way?

Q. You have just explained about putting in a blast in an earth cut?—A. Yes.

Q. Give us an interpretation of one of these clauses, an illustration?—A. Well,

you see that cut could be easily—that earth cut could be easily ploughed. I am speaking now of an earth cut. There is no dispute about common excavation, there is no dispute about it, the contractor can plough that.

Q. There could not be any issue about that at all?—A. It is cheaper instead of ploughing it to put in a blast and shake it up.

Q. I see?—A. Contractors will tell you that.

Q. Well now——?—A. It is very often done in the west. But that clause 35 is a heart breaking one.

By the Chairman:

Q. Is what?—A. A heart breaking one. The plough test is a very difficult test to judge properly.

Q. In your examination-in-chief when speaking about your interview with Mr. Lumsden in Winnipeg you stated that you had told him that you had noticed a jump in solid rock and that the only way you could account for it was that somebody had suggested a more liberal return than you could approve?—A. Will you give me the Exhibit?

Q. That is to be found at page 150 of the evidence. Do you remember stating that?—A. I would like to have the Exhibit. I referred to it. It is a list of——

Q. Here is what I mean (reads):

'Q. What discussion took place between you and him as to these July estimates? —A. I said I had noticed that there were several cases where the solid rock estimates had jumped in that month but of the usual average and the only way I could account for it was that somebody had suggested to the men, the engineers on the line, to return solid rock with more liberality than I was inclined to do.'

Mr. HODGINS.—Where is the Exhibit?

Mr. MURPHY.—I am not asking about the Exhibit, I am asking about that statement.

The WITNESS.—I want to find the paper I based that on (Exhibit produced). That is the one I think. What is your question Mr. Murphy?

By Mr. Murphy:

Q. I am referring you to the evidence you gave in answer to your counsel and I have read you your reply to his questions contained on page 134, and I direct your attention to your statement; the only way you could account for it was that somebody had suggested to the men, the engineers on the line, to return solid rock with more liberality than you were inclined to do?—A. Yes.

Q. No, how do you know that anybody made any such suggestion?—A. Yes. What is the date of that interview?

Q. It was your interview with Mr. Lumsden in August last?—A. Yes.

Q. Do you know that anybody had made any such suggestion?—A. Of increasing the solid rock?

Q. I will read this to you again (reads):

'Q. What discussion took place between you and him as to these July estimates? —A. I said I had noticed that there were several cases where the solid rock estimates had jumped in that month out of the usual average and the only way I could account for it was that somebody had suggested to the men, the engineers on the line, to return solid rock with more liberality than I was inclined to do.'

Mr. HODGINS.—Read the next question.

Mr. MURPHY.—I am not going to do so.

Q. Do you recall that?—A. Yes.

Mr. HODGINS.—It is unfair to the witness.

Mr. MURPHY.—Now my learned friend will permit me to cross-examine the witness.

Q. Do you remember giving that evidence?—A. Yes,

Q. Now do you know whether Grant made any such suggestion as you indicate

there?—A. I had heard from some of the engineers—in my discussion with him in my office, just after he had made his inspection, he suggested that the classification should be increased.

Q. He suggested, you say, that the classification should be increased?—A. Yes.

Q. Did he say how or where?—A. By using force account. We discussed the question of force account as an aid to classification.

Q. Yes, that is not the suggestion you refer to is it?—A. No, it is an inference. My statement there is an inference that I came to on getting his document I had in my possession here.

Q. I see. It is only an inference deduced from the returns compiled for you by Mr. Ruddick in your office?—A. Yes, I asked him to make out these things. I showed that in——

Q. Never mind we have that?—A. Did you get the soild rock?

Q. Yes, we have all that filed and taken down. Now following the answer I have just directed your attention to, when you were putting in those figures contained in Exhibit 8, you said that all these figures should be taken in connection with force account too?—A. All which figures?

Q. The ones you had been reading?

Mr. Hodgins.—At what page?

Mr. Murphy.—At page 151 of the evidence.

The Witness.—Yes, force account.

Q. All these figures should be taken in connection with force account too?—A. —Yes.

Q. Just explain what you mean by that?—A. Increased force means yards, that would mean you would have to make a deduction, a general deduction. Increased force on the work would mean increased yards——

Q. Yes?—A. Moved. It ought to be.

Q. Would you just explain a little more fully, major, what that reply of yours means: 'All these figures should be taken in connection with the force account too.' —A. Yes. Well, one would have to get to work and find out the number of yards of rock moved by the men per day or per month in either of these months that I have given here. It would be rather a long calculation to make.

Q. Yes, but I want to know what is the bearing?—A. The general bearing is that—take for instance the common excavation moved in June, for the month of June.

Q. Yes?—A. 11,942 yards.

Q. Yes?—A. There were so many men moving that.

Q. Yes?—A. Now in the month of July there were only 385 yards moved so a lesser number of men would have moved that. In the month of August 14,000 yards moved, so a very much increased number of men would have moved that. But in order to get these figures we would have—for the date when the extra men or the lesser number of men would work, we would have to have the force account for the months.

Q. And I suppose it would also depend upon the weather?—A. Yes.

Q. As to the time they were able to work?—A. Yes.

By Mr. Macdonald:

Q. If you will pardon me, Mr. Murphy; what is your theory about the condition of affairs there last summer? You say that down to July there was no fault to be found with the classification that was made by the District and Resident Engineers under you?—A. No.

Q. Do I understand that?—A. Yes.

Q. You say that in July the classification of these engineers was being made differently from that you thought was proper?—A. Yes, on two divisions.

Q. On two divisions only? Then as regards the rest of the divisions, it was all right?—A. Yes. There were probably one or two places, I think, it was increased a little.

Q. Now, do I understand you to say that you regarded this increased classification as being due to the incorrect judgment of the engineers or to some improper influence that was exercised on them?—A. Well, it was—I put it down to Mr. Grant's——

Q. You say—I only want to find out, because there will be a time in this inquiry when we will have to get down to the first principles—you say that when Mr. Grant came on the scene he exercised an influence over the engineers in these two districts, which caused them to increase the classification?—A. Yes.

Q. Now, do you say that influence of Mr. Grant was due to a difference of opinion between you and him as to how rock or other material should be properly classified or whether it was due to an improper——A. I cannot——

Q. Idea on his part?—A. I cannot accuse him of having an improper idea.

Q. You could not accuse him of having exercised an improper idea?—A. I say it is a wrong idea.

Q. That is, you and he simply disagreed?—A. Yes.

Q. And he took a view that you did not agree with?—A. Yes.

Q. That is the position in which matters stood at the time previous to your leaving the commission?—A. Yes.

Q. That is all you say about that at that time, is it?—A. Yes.

Mr. MACDONALD.—Well, I just wanted to know in order to understand.

By Mr. Murphy:

Q. Now, when were these notes contained in Exhibit 8, which you have in your hand, compiled?—A. It is Exhibit 10.

Q. When were these notes compiled?—A. I think I had them compiled in July, and then I had them compiled again in August. There is no date on them.

Q. Compiled first in July and then added to and carried up to a date in August?—A. Yes.

Q. Is that correct?—A. I think so, yes.

Q. By Mr. Ruddick?—A. Yes, I think it is Mr. Ruddick's writing, I am not certain. It would be one of the men in the office.

Q. When did you have that compilation made?—A. I think it was when I found that sudden jump in the July estimate.

Q. That was the first time you had these made?—A. Oh, I have compiled them at various other times, but probably not at such great length as these—more to find out what progress, how much work was being moved.

Q. You think these notes were compiled in July?—A. It would be done in August—the first of August. At least the July work would be done early in August and the August work would be done later.

Q. At page 155 of the evidence I see the translation of a cipher telegram, dated September 22nd, sent by you to the chief engineer. It is marked Exhibit 14, and is as follows (reads):—

'If McIntosh tries to justify his classification refer to Mann and Heaman. Ask McIntosh how much experience he has had in classification, what position he held prior to joining Transcontinental Railway. Ask Grant same questions; both records would be interesting. If their opinion is against Mann's, Heaman's and mine, re-classification divisions 5 and 6 is absolutely necessary.'

Now, why did you ask the chief engineer to refer to Mann and Heaman?—A. McIntosh telegraphed me that he was going down. I did not know anything about it. I was still district engineer and I had not been relieved, and I considered it necessary for the chief engineer to know both sides of the question.

Q. Mr. Mann and Heaman—at least Mann at that time was employed on the Grand Trunk Pacific?—A. Yes.

Q. And Heaman?—A. On the Transcontinental.

Q. In the employ of the Transcontinental, and had been your assistant?—A. Yes, was my assistant at the time.

Q. And that was your reason for asking the chief engineer to refer to Mann and Heaman, was it?—A. Yes.

Q. That was your only reason?—A. Yes; those two men knew the circumstances and the conditions of the work and the classification in dispute.

Q. And the July estimate, as I understand, was made up the latter part of July and signed by you about the 1st August?—A. It would come, yes, it would come to my office. They vary. They were due in Ottawa by the 8th. They had to be collected by the division engineer.

Q. That was after the date of Mr. Grant's report? His report is dated July 23rd? —A. I think I had just arrived from the east in time to sign those estimates.

Q. You passed them, as you said in your evidence, and that was after the date of Mr. Grant's report?—A. Yes, I had come back from Ottawa.

Q. And after you had put in your own report?—A. Yes.

Q. Dated July 31st? Now, a little further on, at page 166 of the evidence, you spoke about an interview that you had with a Mr. Dutton, whom you described, I believe, as a sub-contractor?—A. Yes, one of McArthur's principal sub-contractors.

By Mr. Barker:

Q. Had you any instructions from the commissioners to act in co-operation with Mann?—A. Oh, yes. He was to act in joining supervision with me. That was an agreement with the Grand Trunk Pacific. I had a letter to that effect when Mr. Mann came down.

By Mr. Murphy:

Q. You have told us, at page 164 of the evidence, that you first passed McIntosh's classifications in the July estimates?—A. That is this classification that was afterwards struck out?

Q. Yes?—A. Yes.

Q. And you said that Dutton was inclined to find fault with Willett and Macfarlane?—A. Yes.

Q. For not classifying as high as the classification in McIntosh's division?—A. Yes, he said, 'If McIntosh gives the classification high, why can't you.'

Q. Well, now was that exactly what Dutton said?—A. Yes, something like that.

Q. Your words as reported at page 166 of the evidence are as follows:—

'Mr. Dutton was rather inclined to abuse these two engineers for not classifying as high as had been classified on Mr. McIntosh's division.'

A. Yes.

Q. Now, what did he actually say?—A. Well, he told them that—he was finding great fault, I think it was with Macfarlane's classification and Willett's.

Q. And you say that his complaint was, 'That they did not classify as high as had been classified in Mr. McIntosh's division'?—A. Something like that.

Q. What did Dutton know about the classification in McIntosh's division?—A. Dutton you see had 60 miles and it went over McIntosh's and Macfarlane's division.

Q. Yes?—A. So some of his subs came in from McIntosh's and some from Macfarlane's—principally on Macfarlane's—but a portion of Dutton's mileage went over on McIntosh's division. That is how he knew.

Q. That would be how he knew. Then speaking of the same interview with Mr. Lumsden on the occasion when you went to Winnipeg with him, you told us that it was arranged that if Mr. Lumsden came to Ottawa and saw the board with reference to your suggestion as to the employment of force account, he was to send you a wire? —A. Yes.

Q. Did you have such a wire?—A. Yes.
Q. Have you got it?—A. No, I have not got it.
Q. I am going to produce and file a letter to you:—

EXHIBIT No. 34.

August 24, 1907.

A. E. Hodgins, Esq.,
District Engineer,
Kenora, Ont.

Dear Sir,—I wired you to-day in cipher as follows:—

'Completed worshipped obligato argumentative joseph international transferable drag environ cluck naval beguile assign perplexing convicted antechamber specifications overturned worshipped obligato beguile aria calumniation memoralized drag environ significant beguile object antechamber transferrable requirable thunder examine wretched likewise stoned till helper soothing clucking.'

Which means, Commissioners will not approve your instructions to division engineers. Classification must be as per contract and specifications, otherwise they will not be approved by me. Division engineers should be notified to so classify and accompany their estimate with letter stating that they have so classified.

Yours truly,

HUGH D. LUMSDEN.

Q. You remember that letter, major?—A. Yes.
Mr. Hodgins.—And the wire, I presume?
Q. First getting the telegram and then the letter?—A. Yes.
Q. Then at page 182 of the evidence, the following question and answer occurs:
'Q. What is the result of that, as far as you know?—A. I have been taking notes from the estimates and the over-break generally amounted to much more than what I imagine they have been giving them. I thought so going over them. They had instructions to give them everything they possibly could, but it is a difficult matter to measure over-breaks exactly with a tape unless you spend a lot of time.'
A. The over-break? I did not mean to say that the over-break on the work amounted to more than the engineers were giving.
Q. That is what I want to ask you?—A. That is a mistake. I was not in a position—I told all the engineers to give such over-break as they possibly could.
Q. Your answer as reported on page 272 of these notes would it not be that the engineers in your division had not been returning as much over-break as they might have returned?—A. That is wrong because in my opinion they were returning as much as they possibly could—as far as I could judge unless I had gone out and measured it myself. I cannot say whether they did return enough or not, but I told them they ought to be as liberal as possible in the return of over-break. Of course, you know in over-break there is a large amount of shattered rock that is still on the slope of the cutting that would have to come out. Well, it costs something to take it out and it just rests with the engineer whether he includes that in his over break or not.
Q. Well, as I understand you now——A: That is a mistake.
Q. You want to correct these notes?—A. Yes, I would certainly correct these notes.
Q. I understand you to say it is not your place, that the engineers were told to return as much over-break as the contractors were entitled to?—A. No, I wanted them to return all the over-break. This over-break question was a disputed question at one time, and then Mr. Lumsden and Mr. Young came up to Kenora. In my office at Kenora we met and discussed this over-break and it was decided then that the contractors were to get all the over-break that occurred. Now, the measurement of over-break cannot be finally made until the cut is finally taken out.

Q. That is what you have to say about it now?—A. Yes.

Q. Well, at page 184 of the evidence occurs this question and answer:—

'Q. The information is already in?'

(Speaking about estimates, apparently.)

'A. Our estimates that we put in are not approximate, they are just as close as men could possibly get them.'

A. What estimates are you referring to?

Q. The original estimates?

Mr. Hodgins.—That is about the openings?

A. Yes. That is, they are as close as you can get them before the work is actually done or laid out. The estimate was, therefore, approximate, to a certain extent.

Q. Now, in the month of June, of which we have been speaking, that is June, 1907, there were few labourers on the work, I understand?—A. June? How many were there?

Q. As I recall what you said about it?—A. June, 1907?

Q. Yes?—A. 3,837.

Q. As I recall what you said about men at that time, it was that labour was unsteady, men were coming and going—A. They were that way pretty nearly every month when they could get out, unless they were frozen in.

Q. Was not that the case pretty nearly everywhere?—A. Yes; there was work going on, the double tracking of the Canadian Pacific Railway.

Q. I am not asking you for the cause; I am only asking you, is not that a fact, that is what I understood you to say?—A. A certain number were coming in and going out, but the steady ones, of course, on the contract were not going.

Q. And due to that cause, I presume, there was danger of cuts being opened up and then abandoned by station men giving up the work?—A. That was one of Mr. Grant's charges against me.

Q. I am asking you if this was the fact?—A. Well, in one or two cases I noticed some cuts had been abandoned, but I have forgotten just now the location of them and the exact reason why the men had left the work.

Q. Well, isn't it the rule then that the engineers follow to provide for such emergencies as that by keeping the classification down at first?—A. No, I do not think they should do that; I do not believe in an engineer keeping the classification down.

Q. Is not that done in cases of that kind, so that the engineer will make sure that particular cut will not be over-estimated should the men abandon it afterwards?—A. The estimates ought to be fair.

Q. I am asking you is it not the rule followed by engineers?—A. No.

Q. You say it is not?—A. What is this rule again? That you will give a man a decreased estimate during his first few months on the work?

Q. No, I did not ask you about that. I am asking you about keeping the classification down at the beginning?—A. Who should keep it down?

Q. I am asking you that question?—A. I do not believe in that. You should classify as fairly as you can month by month to give a man all that is coming to him; more especially in opening up work the contractor has very much more expenses in the first month, when he is opening up his contract, than he has later on, and I know that contractors always like to have as big estimates as possible for the first couple of months.

Q. It is not your rule, then, in any event?—A. I would not approve of holding back classification.

Q. Do you remember telling this man Dutton on division 7 that you did not wish him to ask you about classification of a particular cut before A. G. McFarlane, the divisional engineer?—A. I did not wish him to ask me?

Q. Yes?—A. No.

Q. Do you remember anything being said to you to that effect?—A. I remember

Dutton wanted to know the classification in advance that he was going to get for a certain cut.

Q. He was asking you that?—A. I do not remember whether he asked me that; we were sitting in the camp together, Dutton, Tye and myself.

Q. What was said?—A. Well, Dutton wanted to know the classification on that tunnel cut—the wet cut.

Q. Now, which cut are you speaking of now?—A. I am speaking of the wet cut immediately to the east of the tunnel.

Q. You mean on Dutton's work?—A. Yes; I forget the mileage, but on Dutton's work.

Q. Well?—A. He said he was losing money on the classification that Macfarlane was giving him; it was a nasty cut to classify under this loose rock and common excavation specification. It was wet, springs were coming in, it was running down in a little valley in a drawing, and there was no possible way of draining it; you could not keep the water out except by running it down the centre of the cut; it was muddy, and it was a cut that certainly would require——

Q. Was A. G. Macfarlane there?—A. I think so.

Q. What was your reply to Dutton?—A. Well, in order to be able to classify a cut like that intelligently one would have to go and watch it, and see the work.

Q. What was your answer to Dutton?—A. I do not remember—what do you say he asked me?

Q. I ask you if it is not a fact that you said to Contractor Dutton on that Division 7 that you did not wish to classify a cut before A. G. Macfarlane?—A. Before Macfarlane had done so; you mean to say before Macfarlane had done so.

Q. No, in his presence, you did not wish to classify the cut in his presence?—A. Oh dear no, that I would not want to classify any cut in the presence of Macfarlane?

Q. The cut that you were speaking of on that occasion?—A. No.

Q. Your answer is that you did not say it?—A. No, I would want Macfarlane to classify it before me and I think he ought to be able to classify it quite accurately.

Q. With reference to your statement that McIntosh had jumped loose rock to solid rock at page 130 of the evidence, I would like to ask you, Major, how do you know that was not solid rock?—A. Which.

Q. The material which you stated McIntosh had jumped to solid rock; how do you know it was not solid rock?—A. My eyes told me.

Q. But at that time you had not been over the road?

Mr. HODGINS.—At what time?

Mr. MURPHY.—The time he makes the statement, makes this charge.—A. I had been over the road.

By Mr. Murphy:

Q. You had been over the road? Then do you mean to say now it was because of your inspection you made that statement that he had jumped loose rock to solid rock?—A. It was not solid rock.

Q. That is a statement; I am asking you how do you know it was not?—A. My eyes told me.

Q. Then this statement is based on what you saw in your inspection?—A. Yes.

Q. Then on page 146, in speaking about stripping you say in answer to a question,

'Q. Now, have you notes on that?—A. (Reads): 'A portion of the stripping taken out, 2 or 3 feet deep. 50 per cent of this loose rock and 30 per cent solid would be liberal.' Do you remember giving that evidence?—A. Yes.

Q. I want to know by what process you arrived at that percentage, Major?—A. By looking at it on the ground. I suppose I measured it by eye.

Q. You did not see it taken out?—A. Oh no.

Q. And not having seen it taken out you were able—— ?—A. Oh now you are getting back——

Q. Able to reduce it to that percentage by merely taking a glance at it ?—A. That is a liberal percentage, not a close percentage, I would not attempt to give a close estimate on any classification at a glance.

Q. I just wanted to know how you arrived at it. Then were there any measurements taken at all ?—A. No.

Q. Now, at page 155 of the evidence there is a quotation from a letter of yours of the 9th of September in which this appears :

'I am now going up to go over the 13 cuttings where common excavation and loose rock were transferred to solid (5,855 yards) in July, and am taking Mr. Heaman up to go over the whole division with Mr. McIntosh and report.'

Q. Do you remember giving that evidence ?—A. Yes.

Q. Now, didn't you know that that time when you proposed that inspection there was friction between Heaman and McIntosh?—A. No, there may have been before, but if I remember right it was all settled. I had spoken to McIntosh once or twice and I think they were on very good terms.

Q. Had Heaman been over McIntosh's division before that ?—A. I cannot remember.

Q. Didn't you tell McIntosh that Heaman would not be asked to go over his work ?—A. No.

Q. That you wanted him in the office ?—A. No.

Q. Don't you remember telling McIntosh that Heaman was not your own choice for assistant ?—A. No, I did not.

Q. You did not ?—A. Heaman was my choice for assistant.

Q. As a matter of fact did you instruct Mr. Heaman to go over McIntosh's division previous to September 10th ?—A. I do not remember. I do not remember what date Heaman was out.

Q. I am not asking you when he was out, but did you instruct him ?—A. Yes, I had instructed him I believe to go over division from the Winnipeg river to the English river in May or June. We had both intended going out, I was going west and he was going east but I went to Quebec on that trip instead and he did not go.

Q. What instructions had you given at that time ?—A. Just to go out, nothing specific.

Q. Nothing specific, there was nothing mentioned about McIntosh's division ?—A. No, to take them all in.

Q. Do you know whether Heaman went or not ?—A. I do not know, I was down in Quebec. No, then I went down again to Ottawa, and then Heaman went away on leave until the 1st of July or June.

Q. And do you know, as a matter of fact, whether he had been out over McIntosh's work or not?—A. No.

Q. Now do you remember stating that on or about August 23rd you walked over the road from Webster's camp to the east end of division 6, do you remember that, Major?—A. To the west end of division 6?

Q. Yes?—A. 'I have recently been over the ground between the east end of Canyou lake and the English river,' that apparently was about the 24th of August, do you remember that?—A. The east end of Canyon lake and the English river ? The Wabigoon river, wasn't it ? Waubigeon Falls, I reached there about August 24th.

Q. Was that the first time you had been over the work?—A. No, I was up in Canyon lake in February, I think.

Q. I see, that was the winter trip you told us about?—A. I do not know whether I had been up to the actual falls or not.

Q. I am speaking about this occasion that you have told us about, going out and being over a portion of the work and telling McIntosh that you were satisfied with

the classification?—A. No, you see, I think that first trip we had a long argument about classification.

Mr. MACDONALD.—What month was that?

Mr. MURPHY.—August, I have it.

A. August I think that was. I can fix that now if I can tell whether I was in McIntosh's camp on Sunday, because one time that I was there we went out on these clay cuttings and we were discussing the amount of loose rock that would be permissible to allow in the Wabigoon clay country. As far as I could make out various percentages had been given and the material all practically the same. I wanted to get some sort of uniform classification for all that clay.

By Mr. Macdonald:

Q. This was in August?—A. Yes, and I discussed the question with McIntosh and I was getting from his account returns how much it would cost in men and teams to do certain pieces of work, and we would figure out the yards and find out what it cost per yard and we found there was a good deal of variation in the cost per cubic yard of that same material, and I could not account for it except that some contractors were handling it better than others; there was another question came in that some men worked during the wet weather which was more or less of a disadvantage, and the other men did not, and I wanted to find out from McIntosh a basis of uniform classification for that; he had a classification which certainly was not uniform for the material moved. He asked me what my opinion of it was; it was on a Sunday, there were no men working on Sunday, and I said I would like to see it plowed, to see what number of horses it would take to plow it. I tried to get some information from the resident engineer and McIntosh about it as to the toughness of the clay, and there were streaks of hard clay, which could be called indurated clay in there, small streaks about that size (illustrating) and the cuts apparently got harder as we went down. I do not think we came to a conclusion on that and so I decided to get up there again some day—I could not wait to put in Monday there—and I decided to come around some day when the men and teams were working, and McIntosh was to get this data so that we could arrive at some uniform rate regarding loose rock and apply it all over the division.

Q. That was in August of last year?—A. Yes.

Q. Up to that time you had given no written interpretation of the specification as a guide for the engineers?—A. No, I do not remember giving any written interpretation, if there is any it will be on the files in the office. You see the specifications were considered as more or less plain, except that loose rock specification.

Q. You had not given each one of the engineers under you any statement in writing giving your own interpretation of the meaning of the specifications in that regard up to August last?—A. No, I do not remember; we have often discussed matters, they would come in——

Q. That is separately?—A. Yes, they would come in and say how should such and such material, describing it, be classified, and we knew this specification more or less by heart.

Q. You made no attempt until August last to obtain anything like a uniform interpretation by the engineers under you, apparently?—A. I thought the men all ought to be more or less uniform in the interpretation of this specification, they always have been. On any road I have been on it is unnecessary for the engineer to explain to the other engineers how things should be classified, to explain to experienced men, and I considered I had experienced men who had worked on construction before and they were experienced.

Q. And it was not necessary to give them any statement in writing?—A. No. the specifications explain themselves, I do not remember having any explanation from Mr. Lumsden, of these except, possibly, an exchange of views. I do not think, I do not know whether I ever asked him about it except when on the works an engineer

might have said, 'I would classify that as so and so,' he would look at it and say, 'I think that is right,' or 'I think it is rather high,' or 'too low.'

By Mr. Murphy:

Q. Of whom are you speaking now?—A. Of Mr. Lumsden or myself, when we were out on the works.

Q. Referring to your answers to Mr. Macdonald, what guide had you for classification?—A. Previous experience.

By Mr. Macdonald:

Q. Then that depends upon the varied whims, experience and opinions of each engineeer?—A. No, they are more or less the same, we know by experience.

Q. Engineers differ like doctors, don't they?—A. Yes, they would.

By the Chairman:

Q. But more like lawyers?—A. More like lawyers, doctors should not differ.

Q. Did I understand you to say in speaking of Mr. Lumsden in regard to the classification, to say that he would differ sometimes and say, It is too high, or too low?—A. I gave that as an instance, what I meant was that Mr. Lumsden or I—it was classification that I was referring to, if we were walking through the cutting or over the cutting, classification might be referred to us, if the engineer said 'I would classify that as so and so' referring to any particular material, we would look at it and would say, 'I think that is right' or 'that is too high or too low,' as the case might be. There would be nothing startling about it.

Q. Did you say it was too high or too low?—A. He might say that such a thing was too high or too low.

Mr. Hodgins.—The chairman wants to know if you or Mr. Lumsden differed in opinion?—A. No, I think I may have been a little more liberal than Mr. Lumsden.

By Mr. Macdonald:

Q. You say that the root of this whole trouble was over-classification. That means that certain engineers differed as to what was the proper classification and that apparently certain engineers over-classified?—A. Yes.

Q. That meant there was a difference of opinion as to what was the correct classification?—A. Yes.

Q. That is it?—A. That is it.

Q. And you, in August last, had not given, we understand, any statement in writing to any or all of the engineers under your control showing what your interpretation of the specifications was, in order to secure uniformity?—A. There was none necessary, I was going over the work.

Q. You had not done so, as a matter of fact? Now was it not necessary in order to prevent this very case of over-classification in two divisions that apparently had arisen, that you should have done so?

Mr. Hodgins.—There had been none.

A. There has been none, none reported to me.

By Mr. Macdonald :

Q. There had been in July?—A. I found that out from the statement that came in with the estimate that a certain amount had been transferred from one column to the other.

Q. I understand the witness to say that after Mr. Grant came along there on two divisions there had been over-classification, but up to that time he had not taken any precautions to prevent any difference in views between the divisional engineers or to secure uniformity?—A. There was, in my opinion, uniformity.

Q. They might not be uniform in their interpretation when they come to a certain quality of soil or rock?—A. You would hear very quickly from the contractor if they were not giving him enough.

Q. Well, you say that after Grant came along, as a result of his visit there was over-classification?—A. On two divisions in my district.

Q. And you attribute that to Grant, and to no other person?—A. No.

Mr. BARKER.—It is more accurate to say that after Grant came he found the material was transferred from one class to another.

Mr. MACDONALD.—Over-classification is the phrase he used.

Mr. BARKER.—I know, but that is the fact as he explained it; that McIntosh had reported in his monthly reports certain classification and he found that subsequently that had been transferred to another classification.

A. Mr. Macdonald, the chief engineer, never gave us any written interpretation of these specifications.

By Mr. Macdonald:

Q. Mr. Lumsden did not?—A. Yes, I believe from some correspondence that later on he gave a written interpretation, in fact he wrote each one of the district engineers I had left, and asked them what the interpretation was and they differed.

By the Chairman:

Q. They differed, you say?—A. Yes, they differed.

Mr. CARVELL.—When was Mr. Grant up there the first time?—A. I think he came up there, it was just after our trip to Quebec, we went down in June or the beginning of July, and he went over the work with the contractor and he saw some of the engineers and some of the contractors, he did not see all the engineers but he talked with some of them; I was getting the answers to the questions that Mr. Lumsden had for——

By Mr. Murphy :

Q. Referring to the question asked by Mr. Macdonald, you knew there was a difference of opinion as between the engineers in District B and the Chief Engineer with regard to classification, didn't you?—A. Oh no.

Q. You did not?—A. You see when I went down to Quebec Mr. Lumsden was in the party, but he did not go over the work and look at it.

Q. You had no knowledge of any difference of opinion between the engineers in the district and the chief engineer up to that time?—A. No, what I was astonished at down there was that Mr. Lumsden signed these estimates, I knew there was a difference in the classification there.

Q. Now, in answer to Mr. Macdonald, I think it was, you spoke about there having been uniform classification in your district up to the time you objected to the returns made by McIntosh?—A. Yes, well, uniform as far as I could get it. Mr. Macdonald gave an instance that lawyers and doctors differ, but it had been, as far as I knew.

Q. But you have told us also that Mr. Dutton complained about the classification not being uniform?—A. Yes.

Q. How do you reconcile these two statements?—A. Well, Mr. Dutton said he wanted to get some of the promises Grant made.

Q. You have told us that what Dutton complained about was that Willet, and I think Macfarlane, were not classifying in accordance with the classification in McIntosh's division?—A. That is what I said and——

Q. If that were the case, then classification was not uniform up to that time?—A. This is what date? I was up at Dutton's in August and the classification that McIntosh had increased was in July.

Q. Yes?—A. And the classification on the district west of McIntosh's was practically uniform.

Q. Yes, but the classification of which you say Dutton was speaking had been made prior to that, it must have been made prior to that or he could not be complaining of it.—A. The question on McIntosh's division was, roughly speaking, that he had taken a certain amount of stripping that he had previously returned as loose rock and common excavation, and returned it as solid rock. There was a lot of similar kind of material on the two Macfarlane's divisions and I presume Dutton thought, if he was getting a portion of his estimate for this stripping turned in on McIntosh's division as solid rock, why not in the two Macfarlane's; McIntosh's was doing it and Macfarlane's, Mr. A. G. Macfarlane and Mr. M. C. Macfarlane were doing it.

Q. When had the classification been made of which Dutton was speaking?—A. Possibly in July.

Q. You are not sure. —A. It would be certainly in July because I was talking to Dutton in August.

By Mr. Macdonald:

Q. I suppose this board of arbitrators, Mr. Lumsden and Mr. Wood, and in the event of their disagreement, a third man, ought to be able pretty thoroughly to settle what is the proper classification in regard to these matters?—A. Certainly. You have been asking my opinion of the specifications and the interpretation of different clauses, well, my opinion of these specifications at this present time may be different to Mr. Lumsden's, but I do not see why I am called upon to give it; it is the opinion that Mr. Lumsden had previous to my leaving, and, as I thought, was the general opinion at that time.

The committee adjourned.

MONDAY, June 15, 1908.

The committee met at 3 o'clock p.m.

The examination of Major Hodgins resumed.

Mr. MURPHY.—My learned friend, Mr. Hodgins, has been asking for the production of some correspondence in the possession of the Premier and Mr. Aylesworth. That in the possession of the Premier consists of a telegram from Mr. James Conmee marked private. The correspondence with Mr. Aylesworth consists of a letter from Major Hodgins to him—and there is an enclosure to which my learned friend especially referred—which is marked private.

Mr. MACDONALD.—Who writes the letter to Mr. Aylesworth?

Mr. MURPHY.—Major Hodgins under date, I think, of September 19th. Now in conformity with my learned friend's request I have inquired about the production of these communications. The ministers say they have no objection to producing them so long as privacy be waived. The telegram from Mr. Conmee is marked private and he states that he objects to the production under those circumstances. I do not want any misunderstanding to arise about these productions and I thought it well to make a statement to the committee at this stage concerning them.

Mr. HODGINS.—I made no reference in my examinations to any of these documents. My learned friend, in cross-examination, chose to make an inquiry about a telegram from Mr. Conmee to the Prime Minister and sought to get an admission from the witness about it. There is no alternative, therefore, for me but to insist, from my point of view, upon the production of the telegram to the Prime Minister, and the reply, if any. As to the letter to Mr. Aylesworth, alluded to by my learned friend, I had not referred to it and am not pressing for it.

Mr. MURPHY.—My learned friend gave me a memorandum asking for it.

Mr. HODGINS.—Yes, I quite agree but I am saying I am not pressing for it. What I wanted is the enclosure in that letter and at the present moment I am perfectly satisfied that that enclosure be produced.

Mr. LENNOX.—I think the documents ought to be produced. I have always had the idea that the mere fact of putting 'Private' on a letter which is necessarily public in its nature and deals with a matter which affects the public, ought not to prevent the document from being brought forward if ever the occasion arose for its production. The evidence having partly gone in I think the documents ought to be produced.

Mr. MACDONALD.—What is the reference to the documents?

Mr. HODGINS.—It is to be found at page 241 of the evidence (reads):

Q. First of all did you apply personally for an investigation into your case?—A. No.

Q. Then, did you apply for an investigation into classification?—A. Yes, Mr. James Conmee came into my office.'

Then the witness relates what occurred with Mr. Conmee. At the bottom of the page occur these questions and answers (reads):

'Q. Yes, what did he wire?—A. He wired something to the effect——

'Q. Did you see the telegrams?—A. He read the telegrams to me.

'Q. Did you see them sent?—A. Yes, one of my men took them down.

Q. Did your man send the message, is he an operator?—A. No, he was my accountant.

Mr. HODGINS.—Are you asking what the contents of the telegram are?

Mr. MURPHY.—Yes.

A. Recommending that the investigation should go on, something to that effect.'

Then further down my learned friend asked the witness whether the reference in the later telegram to Sir Wilfrid Laurier does not refer to his efforts to retain his position. I desire, therefore, that the text of the telegram should be produced as I am advised it is stated in it that it is important that Major Hodgins should be allowed to finish his investigation. It does not go beyond that. Whether there was a reply or not has not been stated. If there was a reply I would like it to be put in. An order has been already passed that the First Minister, or any of the other ministers, having papers or records in their custody or under their control relating to or affecting the matters referred to this committee be requested to produce the same. My learned friend having referred to this telegram cannot object to its production?

Mr. MACDONALD.—Under a general order for the production of papers before any parliamentary committee, the papers to be produced include only such documents as are of a public character. Documents which have been under the seal of privacy are not regarded as a fair subject for production. This does not seem to be a matter about which there should be very much trouble. I would suggest, Mr. Chairman, that you speak to Mr. Conmee and ask him to withdraw his objection about privacy, when the telegram can be produced. If he does not do so it will then be open for us to consider what course to take.

The CHAIRMAN.—You mean to say get Mr. Conmee's consent to waive privacy?

Mr. LENNOX.—If he does not, there will be no question at all.

Mr. MACDONALD.—Then we will consider what course we will take.

The CHAIRMAN.—It will be the same thing, I suppose, in regard to the letter to Mr. Aylesworth?

Mr. MACDONALD.—Yes. If Mr. Aylesworth has no objection to produce the letter and enclosure and Major Hodgins is willing.

Mr. HODGINS.—I never referred to that letter. What I wanted was the enclosure in it. I did not propose at the present stage to ask for the letter.

Mr. MACDONALD.—Then you can get it when you want it.

Mr. HODGINS.—The telegram I want, because where a question is asked concerning it and an inference drawn, we should have the document itself.

Mr. MACDONALD.—I think if there has been any examination as to the document we should see the original.

The CHAIRMAN.—Then it is the committee's opinion that this should be done?

Mr. LENNOX.—Mr. Macdonald's suggestion is all right.

The CHAIRMAN.—Very well then, I will speak to Mr. Conmee and Mr. Aylesworth about it, and Major Hodgins also, and if they waive objection to producing the documents they will be forthcoming.

Mr. HODGINS.—There is no object in speaking to Mr. Aylesworth at the present moment.

Mr. MURPHY.—Then my learned friend waives any privacy there is as far as these documents are concerned ?

The CHAIRMAN.—I understand so.

Mr. MURPHY.—Then it will stand so. In view of the statement just made by my learned friend I would ask the witness to produce the correspondence, or copies of the correspondence, between him and Mr. Butler about which we inquired at a former sitting.

Mr. HODGINS.—I think we had better have Mr. Butler here.

By the Chairman :

Q. Have you that correspondence, Major ?—A. I got a copy from Mr. Butler the other day. I had not any copy myself.

Mr. MURPHY. I ask that the copy be produced now so as to clear up this part of the examination.

Mr. MACDONALD.—Is this private and confidential correspondence that you are asking about ?

Mr. MURPHY.—I understand it is so marked.

The WITNESS.—It was private and confidential.

Mr. HODGINS.—I do not waive anything as to that until Mr. Butler is in the box.

Mr. LENNOX.—We must deal with the best evidence there is.

Mr. MURPHY.—You will recollect that we went into this matter partly before and Mr. Butler expressed his willingness to produce the correspondence if my learned friend waived privacy.

The CHAIRMAN.—I think we ought to have that correspondence just the same as the other correspondence which has been referred to. If we can get the originals it will be better.

Mr. MURPHY.—At present Mr. Butler is ill and we cannot get the correspondence from him today. It will contribute to the more orderly conduct of the investigation if the witness produces the copies which he now says he has.

The WITNESS.—They are over in the hotel.

Mr. MURPHY.—There is only one original letter. The other would be in the possession of Mr. Butler.

Mr. MACDONALD. A letter and a reply to it.

Mr. MURPHY.—A letter and a reply.

Mr. MACDONALD.—Then the witness would have one original and Mr. Butler the other.

Mr. MURPHY.—In any event the witness will have a copy which he could put in.

Mr. LENNOX.—He has a copy of his own letter I suppose.

The WITNESS.—I have not brought all my own letters here. They must be in British Columbia in one of my boxes. I have not got Mr. Butler's original.

Mr. MURPHY.—The witness has told us that he has copies of the correspondence and I ask that that correspondence be put in.

The CHAIRMAN.—I think we ought to have that correspondence. That is my opinion.

Mr. MURPHY.—Then I ask the witness to produce the copies in his possession.

Mr. HODGINS.—I ask for the production of the originals.

Mr. MURPHY.—We will produce the original as soon as we get Mr. Butler to attend.

The CHAIRMAN.—Yes, we will have Mr. Butler produce the originals.

Mr. MACDONALD.—The Major has one original, I suppose he can produce that?

Mr. LENNOX.—The witness has a copy of a letter that he wrote to Mr. Butler, as I understand. You, Mr. Chairman, now rule that although the letter is marked private and confidential it ought to be put in without Major Hodgins waiving the privilege?

The CHAIRMAN.—I suppose we will have to adopt the same rule with respect to this correspondence as in the case of the other?

Mr. LENNOX.—That is what I want to know: whether you adopt the same rule in order that there shall be no clashing in the matter printed.

Mr. MACDONALD.—The difference between the other case and this one is, that in the former case the telegram was written by an outside party. In the present instance the communication is by the gentleman who made these charges.

Mr. LENNOX.—It does not differ from the case of the telegram to Sir Wilfrid, so far as the matter of privacy is concerned.

Mr. MACDONALD.—I quite agree with you that we should maintain some principle in regard to the production of private documents.

Mr. LENNOX.—I was not going that far. I simply desire to know what the chairman is going to rule.

The CHAIRMAN.—I think we ought to have the correspondence, especially the letter which passed directly between Major Hodgins and Mr. Butler. As we have decided to have the other correspondence produced, surely we ought to get this also. I do not want to be arbitrary, but as lenient as possible. Still, I think we ought to have the correspondence produced.

Mr. HODGINS.—You have ruled that Mr. Conmee himself is to be consulted. What about Mr. Butler?

Mr. MURPHY.—I can state Mr. Butler's position.

Mr. HODGINS.—I would prefer to have Mr. Butler here.

Mr. MURPHY.—Mr. Butler is ill to-day, and, unfortunately, may be ill for some weeks.

Mr. HODGINS.—I would like to have Mr. Butler state his position. If any one is to be seen, it is quite clear that Mr. Butler should be.

The CHAIRMAN.—What do you think, Mr. Murphy, about Mr. Butler being seen and getting his consent?

Mr. MURPHY.—Mr. Butler is quite willing that this correspondence be produced, provided the privacy be waived or an order for production made by the committee.

Mr. HODGINS.—I am not desirous of being unreasonable, but I would like to have Mr. Butler's statement in writing. The rule already adopted in the one case would apply to the other.

Mr. MURPHY.—I would like to ask the witness another question on this matter:

Q. You stated, Major, that you have had from Mr. Butler copies of correspondence between him and yourself?—A. Yes.

Q. Have you read those copies?—A. I read them over in Mr. Butler's office.

Q. Have you them now in your possession?—A. They are over in the hotel.

Q. Are they correct copies of the correspondence?—A. I did not go over them.

Q. Did you see the original correspondence?—A. I saw the original letter that I had written.

Q. At the time you got these copies?—A. No; the copies were sent to me from Mr. Butler's office to Toronto.

Q. And you had seen the original?—A. Yes.

Q. A day or so before?—A. Yes.

Q. Are you satisfied that your copy is a correct copy?—A. I presume so.

APPENDIX No. 5

Mr. MURPHY.—I think, Mr. Chairman, unless there is some question about the correctness of the copies that I must ask that this correspondence be produced.

Mr. LENNOX.—Either the witness must consent to the production or else the committee must decide that they will not require his consent. Either the witness consents to waive the privilege, having attached the words 'private and confidential' to his letter, if it is a privilege, or, if he does not, it is for the chairman to order production.

The CHAIRMAN.—I think it is very important that we should have the correspondence referred to. I am willing to interview the parties and see if they will consent to waive their objections to production; I think they will do so.

Mr. HODGINS.—If they do so, I would have no objection at all.

Mr. MURPHY.—There is a very specific difference between a letter marked 'private and confidential' and one marked without prejudice. My learned friend, at the opening of this inquiry, put in a letter marked 'private and confidential' from Mr. Young without asking that gentleman whether he would waive objection to its production or not.

Mr. MACDONALD.—I understand you to say that Mr. Butler is willing to produce the letter asked for if Mr. Hodgins waives privacy?

Mr. MURPHY.—Yes, or if an order is made by the committee.

Mr. MACDONALD.—I understand Mr. Hodgins to say that if Mr. Butler makes that statement in writing, on account of his illness, he is willing to waive objection on behalf of his client?

Mr. HODGINS.—I don't think I could do anything else.

Mr. MACDONALD.—Then it is only a question of allowing the matter to stand until we get that letter from Mr. Butler.

Mr. HODGINS.—I think the same rule as in Mr. Conmee's case should be followed.

Mr. MURPHY.—Very well, then, we will get Mr. Butler's written consent that the documents may be produced.

Mr. HODGINS.—I would like to correct Mr. Murphy in respect of his statement concerning a letter from Mr. Young that was produced. The letter is not marked 'private and confidential,' but merely 'personal.'

Mr. MACDONALD.—'Personal' in that sense means a letter that is not official.

Mr. HODGINS.—I just make that statement in the interests of accuracy.

Q. Was this letter from you to Mr. Butler copied in your letter book?—A. I think so, I have seen the original and it evidently had been copied in Kenora.

Q. Where is the letter-book in which it was copied?—A. It is probably in one of my trunks.

Q. Here?—A. No, in Victoria.

Q. You have not brought that with you?—A. No.

Q. Was that an ordinary office book in which you copied letters of that kind?—A. No.

Q. What book was it?—A. A private book.

Mr. HODGINS.—We will not object to a copy if you produce that consent of Mr. Butler.

By Mr. Murphy:

Q. That was a book which you got in the office in Kenora in which this letter was copied?—A. No, it was not, it was my own book.

Q. It was not one of the office books?—A. It was not one of the office books, it contained letters that I copied in it in Africa.

Mr. MURPHY.—Then we will take that matter just in that way, Mr. Chairman, in regard to Mr. Conmee and Mr. Butler.

The CHAIRMAN.—Oh, yes.

By Mr. Murphy:

Q. Did you have correspondence with any other person of the same character as you had with Mr. Butler, Major?—A. I do not think so.

Q. Did you have any correspondence of a similar character with Chief Justice Howell?—A. No.

Q. Or any other person?—A. Not that I know of.

Q. Since you have read the correspondence with Mr. Butler I suppose that you have no doubt that you did have an interview with him?

Mr. Hodgins.—I submit, Mr. Chairman, that this is a mode of getting around your ruling, by asking as to the contents of letters as to the production of which we have already settled.

Mr. Murphy.—I am not asking as to the contents, that is not my intention, Mr. Chairman, I want to know from the witness if he now recalls a conversation that he had with Mr. Butler here in Ottawa last summer?—A. I cannot recall all of it.

By Mr. Murphy:

Q. Can you recall any of it?—A. Yes.

Q. What was that conversation?—A. It was principally about the report that Mr. Grant had put in, and what I went up to see him for was to see if he could get me transferred from the Transcontinental on to Mr. Collingwood Schreiber's staff.

Q. Was there not at that interview a conversation about the employment of 'force' account?—A. Not that I can remember.

Q. Will you swear that there was not?—A. I would like to hear what Mr. Butler has to say——

Q. We will hear him later on, but we want to hear you now. Will you swear that at that interview there was nothing said about the employment of force account by you?—A. Not by me, no, sir.

Q. Not by you?—A. I can't—I understand you to say did I talk about the employment of force account, or did I recommend the employment of force account?

Q. I am asking you, did you ask Mr. Butler about using force account on your work?—A. I do not think so.

Q. I want you to be positive about it.—A. The principal thing I talked to him about was that report.

Q. I want to know about force account?—A. I might have told him that Mr. Grant suggested force account as a means of classifying.

Q. What else was said about force account on that occasion?—A. That is all I can remember, we did not discuss the question of force account very distinctly.

Q. Did you have a similar conversation to that with Chief Justice Howell?—A. No, but let me say I saw Chief Justice Howell and he asked me something about the McArthur contract, and I told him what I had recommended. That was when I was in Winnipeg at the time Mr. Lumsden and I went to Winnipeg.

Q. You told him what you had recommended?—A. Yes.

Q. What was it you had recommended?—A. That I had recommended the Chief Engineer to tell the commissioners that I suggested force account as a means of settling the dispute.

Q. What else?—A. That is about all.

Q. Did this come up just in ordinary conversation, or were you getting any advice on the subject?—A. He asked me some question about the work.

Q. Were you in the habit of going to him and discussing the work with him?—A. Oh no.

Q. There was no special reason for his being interested in that work?—A. Not that I know of, he started the conversation.

Mr. Hodgins.—This was the conversation between the witness and a private citizen and was in the nature of a private conversation.

Mr. Murphy.—The witness has not said this was a private conversation.

A. It certainly was a private conversation.

Mr. LENNOX.—It was necessarily a private conversation, and as Chief Justice Howell does not occupy any official position on this railway it was essentially a private conversation. It will be unfortunate if we have to take up private conversations of this character.

The CHAIRMAN.—I understood Mr. Murphy to ask the witness if there were other parties to whom he spoke about the employment of force account.

Mr. MURPHY.—That is right.

The CHAIRMAN.—If he had spoken to this one or to that one on the matter, and if he had expressed the idea that it was necessary to use force account, I think we ought to know that.

Mr. MURPHY.—That is it, and the witness did not say anything about its being a private conversation until my learned friend suggested it.

The CHAIRMAN.—We want to find out if the witness advised force account if we have the right to ask him with reference to such conversations.

Mr. MACDONALD.—I do not see that the same objection that applies to the documents we have been discussing would apply to a conversation between the gentleman who makes the charges which we are now investigating and another person. I think we have the right to ask him with reference to such conversation.

The CHAIRMAN.—Here is the gentleman who has made the charges upon which the committee are now proceeding, and we are trying to prove that in certain conversations he made certain statements relating to the matter under consideration..

Mr. HODGINS.—I think it is unfortunate that the name of the Chief Justice of Manitoba should be brought into this matter in connection with a private conversation.

Mr. MURPHY.—The unfortunate thing is that the witness made the statement himself, there was no dragging in of the Chief Justice.

A. You asked me, Mr. Murphy.

Mr. LENNOX.—Mr Murphy asked the witness if he hadn't a conversation with the Chief Justice and the witness recollected it on the question being repeated. Perhaps the unfortunate part of it is that the Chief Justice should speak of it afterwards.

The CHAIRMAN.—Why should it be unfortunate that the Chief Justice should talk about it?

Mr. LENNOX.—Unfortunate in this way that it opens the way for a contradiction as to a matter of fact between the witness and the Chief Justice.

Mr. MURPHY.—We have to find out what the witness stated about the employment of force account and if he chose the judge as the person with whom to discuss it that is not our doing.

By Mr. Murphy:

Q. Here is the profile showing the tunnel cut which you visited at La Tuque, Major, and which you described in your examination in chief, and also in your cross-examination. I would ask you to point out to the committee where you saw the material, and where you described the material that you say the engineers had told you had been classified as 86 per cent solid rock in that tunnel cut?

By Mr. Hodgins:

Q. Does that profile identify that in any way, beyond Mr. Murphy saying that it is the profile of that cut?

Mr. MURPHY.—It is one of the profiles, if you wish to have it identified that can be done. I would ask, Mr. Chairman, that Mr. Doucet be sworn for the purpose of identifying that profile.

Witness retired.

Mr. A. E. DOUCET, sworn:

By Mr. Murphy :

Q. What position do you occupy, Mr. Doucet, at present in connection with the National Transcontinental Railway?—A. I am district engineer of District B.

Q. How long have you held that position ?—A. Since 1903.

Q. Now, I show you a profile which I have already shown Major Hodgins, and I ask you if this is your name on that profile (producing profile) ?—A. Yes, that is my signature.

Q. Does that profile show the tunnel cut described by Major Hodgins in his examination in chief and his cross-examination ?

By Mr. Lennox :

Q. What does it represent ?—A. It represents that portion of the work over which we walked in June, 1907.

By Mr. Macdonald :

Q. Who were there ?—A. Major Hodgins, myself and several others that Major Hodgins mentioned.

By Mr. Murphy :

Q. And does it contain the tunnel cut spoken of by Major Hodgins in his examination in chief and also his cross-examination ?—A. It does.

(Profile marked as Exhibit 35).

By Mr. Hodgins :

Q. It is marked 'Quebec, May 9, 1908' ?—A. Yes.

Q. Then this is not the profile that the work has been done on?—A. That represents the work done in June, 1907, at the place that we walked over.

Q. Is the date wrong, 'District Engineer's office, Quebec, May, 1908' ?—A. This is a copy of the profile.

Q. Is there an original ?—A. Yes.

Q. Where is the original ?—A. It is filed here.

Q. But where is it ?—A. I could not tell you where it is.

Q. Who got it ?—A. The commissioners have it, and can produce it, I suppose.

Q. Who made this map ?—A. We did.

Q. Who did ?—A. In my office.

Q. Who is we ?—A. My men, in the office.

Q. Who are the men?—A. I have about ten draughtsmen in my office.

Q. Give us the name of just one?—A. Mr. Lefebvre, the head draughtsman.

Q. Did he make it ?—A. It was made under his direction.

Q. What did he make it from ?—A. From the original profile.

Q. Is it exactly the same as the original profile ?—A. Exactly the same.

Q. It does not show the work done to the end of June, 1907, does it ?—A. Yes, that is the work done to June, 1907.

Q. Then the original profile is there showing the work to the end of June, 1907 ?—A. Yes.

Q. It is on file in the commissioners' office?—A. Yes.

Q. Where did you make that copy of it ?—A. This was done in Quebec, before I came up here.

Q. At whose request ?—A. At my own request.

Q. And not at the request of the commissioners ?—A. No.

Q. Did you hand it then to Mr. Murphy ?—A. I have given it to Mr. Murphy, yes, if you prefer to have the original you can have it, I suppose.

Q. It is not a matter of preference, I am entitled to have it. Who makes the originals up, of which this is a copy ?—A. The resident engineers on the road.

Q. Do they make it from month to month ?—A. Yes.

Q. Do the different colours denote something ? Some different work ?—A. The work done each month, yes.

Q. Now I see on this it is something like 'A-R-C-H, 6 ft., started April 8, 1907, finished July 2, '07,' that would not be the work done to the end of June, would it ?—A. Yes.

Q. It is finished on the 2nd of July, 1907. Then there is another here, '10 ft. arch finished 10 September, 1907,' this can hardly be done in June?—A. Talking about the work done, the colouring shows the progress down to June.

Q. Is it merely the colouring that is down to June?—A. No, but the progress is to June.

Q. When you show the originals it will show the work done subsequent to June, 1907 ?—A. Read the title.

Q. It says, 'showing work done to the end of June, 1907' ?—A. That is it.

Q. Isn't this 6 ft. arch and this 10 ft. arch work ?—A. Yes.

Q. Then that would not be accurate to say it was to the end of June, would it ?—A. That is not progress.

Q. Finished in July, 1907, that would be carrying it a little beyond the end of June ?—A. Not as far as the colouring is concerned.

Q. I want to know if it is made up from the same profile ?—A. From the original profile.

Q. If it is made up from the original profile up to the end of June, how can it show on it, work done in September following? Will you explain that?—A. The colouring showing the distinct class, there is colouring for each month, as I said the colouring is correct, that is the work done in the cuts to the end of June, 1907.

Q. But it must be taken from later profiles ?—A. That is on the same profile coloured from month to month.

Q. Why don't you have it accurate as to the arches ?—A. The colouring is accurate.

Q. Why do you not have it accurate; I do not care whether it is coloured or not? I say, why don't you have it accurate?

Mr. MACDONALD.—Why do you ask a question like that, as to its being accurate; you do not impugn the accuracy of the plan?

Mr. HODGINS.—I do, as to its being the work done to the end of June.

By Mr. Hodgins:

Q. Is there anything in your office just exactly similar to that?—A. Yes, exactly similar.

Q. When was it constructed or made?—A. I suppose about a month or six weeks ago—the copying.

Q. Have you anything to the end of June, 1907, compiled which is an exact copy of this?—A. Yes.

Q. And has that one which was compiled to the end of June this statement of September, 1907, on it?—A. No, it would not have it.

Q. Then that is not an exact copy?—A. I am explaining with regard to the colouring, that it shows the progress made in the cut.

Q. Then I prefer to have the original.

By Mr. Macdonald:

Q. You say the colouring here indicates and shows the position of the cuts as in June, 1907?—A. Yes.

Q. And this addenda is outside of that, of course?—A. They were copied at the same time, perhaps.

Q. And they should not have been here?—A. It would have been better to have left them out.

Q. This is intended to show the cuts at that time?—A. Yes.

By Mr. Lennox:

Q. But these additional notes could not have been on the profile at the end of June?—A. This is the same profile we have been carrying on from the beginning of the work.

Q. But they could not have been there in June?—A. No; the starting would be on then, and then we would put in the finishing date when the work was completed.

By Mr. Hodgins:

Q. Were the instructions to Mr. Lefebvre to copy the colouring?—A. Merely to copy the colouring.

By Mr. Murphy:

Q. The witness only saw one cutting, down there, or he has spoken of only one cutting rather, and this is the cutting shown on this profile.

The CHAIRMAN.—Which witness?

Mr. MURPHY.—Major Hodgins.

The CHAIRMAN.—And this shows the cutting he was there specially to inspect, which he told us all about, and that it occupied ten or fifteen minutes in inspection.

By Mr. Murphy:

Q. That is the section to show the work at the end of June, 1907?

Mr. HODGINS.—There are two cuts, Mr. Doucet, are there not?

Mr. DOUCET.—There are three cuts.

Mr. HODGINS.—Are these three cuts shown on this profile?

Mr. DOUCET.—Yes.

The CHAIRMAN.—But the cut which was mentioned by Major Hodgins is there, is it not?

Mr. DOUCET.—That is the one (indicating on plan).

Mr. HODGINS.—Which is the one on which sand was being wasted?

Mr. DOUCET.—That one, the middle one (indicating on plan).

Mr. MURPHY.—These questions asked Mr. Doucet are anticipating some questions that I want to ask the other witness.

Mr. HODGINS.—I simply wanted to identify which was the one on which sand was being wasted.

Mr. DOUCET.—The middle one, you have your thumb right on it there.

Mr. HODGINS.—And that is the one you say he saw?

Mr. DOUCET.—That is the one he saw.

Mr. HODGINS.—And only this, the one marked 'tunnel, 500 feet, cancelled'?

Mr. DOUCET.—Yes.

Mr. HODGINS.—Then nothing on this plan indicates anything else that could be called the tunnel cut?

Mr. DOUCET.—No.

Mr. HODGINS.—There is another one a little further down towards the bottom of this plan that is very similar to what you call the tunnel cut; did he walk over that?

Mr. DOUCET.—I did not with Major Hodgins, no.

Mr. HODGINS.—Did Major Hodgins walk over it?

Mr. DOUCET.—I could not say; I do not know.

Mr. MACDONALD.—Did the Major walk through more than one cut?

Mr. DOUCET.—Major Hodgins stated he got out of the carriage and went into the cut, and that is where the carriage was stopped.

Mr. HODGINS.—What he says at page 280 is:—

'Q. And you gave a description of it?—A. Yes, I believe in that description I confused two cuts.

'Q. I think you confused more than two cuts, Major?—A. You think so?

'Q. What confusion is there between the cuts?—A. That cut consisted of——

'Q. When you say "that cut," which one do you mean?—A. The first one.'

Just let us understand, is this one marked 'tunnel cut, 500, cancelled,' the very one to which he referred?

Mr. DOUCET.—I could not tell you, I was not here when Major Hodgins gave that evidence. I was with him in that cut, and that is where the carriage stopped and where we got out.

Mr. MURPHY.—I submit, on the examination of my learned friend that this profile should now be put in.

Mr. HODGINS.—I have asked for the original and I thought that I would get it.

Mr. MURPHY.—My learned friend should also have referred to page 281 where the Major says,

'I only spoke of one cut,' and on page 128 the major was asked:

'Did you go right through it?—A. It was not through. I went in to one end of it and then I walked over the upper portion of it and down to the other side.

Q. Now, just describe the cutting?—A. The western end, I think it was, we first came to, was a mass of loose rock, boulders,—I did not see any very large ones, a very nasty looking cutting—and on the upper portion of it there was some sand, wet sand and loose rock. That was being wasted in carts or scrapers—carts I think—and the other end of it was loose rock. I did not see any solid rock in place.'

This is in his examination in chief and then on page 129 the major says:

'I made some remark about the chance or the possibility, of getting a line around it and avoiding such a heavy cut. It had really been laid out as a tunnel, but when they found there was no solid rock in the place they abandoned the tunnel idea and took it as an open cut.'

And then, farther down on the same page, the major was asked by Mr. Hodgins:

'Q. Just describe what the cutting was so far as you saw it; it was open and consisted of?—A. Loose rock, cemented material, sand, wet sand, and boulders; I was told the largest boulder they had come across so far was a boulder of about 200 yards in size; one of the engineers told me that.'

Then on page 280 or 281 he proceeds to identify this cut in the same way and tells of the conversation that took place there. He says:

'We got out of the carriage and walked up into one face of it, and then we walked over the cut and went to the other face.'

And then he was asked:

'Q. When you say 'that cut' which one do you mean?—A. The first one.

'Q. The one you spoke of in your examination in chief?—A. I only spoke of one cut and I spoke of sand being wasted on the top of it; I do not think there was any sand, I think it was another cut that I haven't spoken of.'

That is with reference to the sand (continues to read):

'Q. You now say you confuse this tunnel with another one?—A. No, I did not confuse the cut, I said on the top of this cut, I was referring to another cutting, classification, where sand was being wasted, I saw sand was being wasted on another cutting, the next one we went through. I did not pay very much attention to that.'

So that is not the one?

Mr. MACDONALD.—There is only one cut he gives evidence on. That is what you say?

Mr. MURPHY.—That is what I say. That is the evidence, it is quite plain.

Q. Now I ask the witness if that is not the tunnel cut (producing profile and handing to witness)?

Mr. HODGINS.—I must ask for the production of the original.

Mr. MURPHY.—We will undertake to produce it as soon as it can be got.

A. (After examining profile marked Exhibit No. 35.) This is the first time I have seen a profile of it. This is the first time I have seen the profile and, of course, I cannot identify anything on it, I don't know what the station is.

Q. The station is indicated at the bottom is it not, major?—A. Yes, but I did not take note of the station when I went through. I will have to take Mr. Doucet's word to say this is the cut that we got off at.

Q. If you did not take any note of the station when you went through it, having the station now will not help you?—A. Yes, you identify it on here.

Q. Yes, but you did not take a note of it at the time?—A. You see I cannot identify this as the profile unless I was out on the work.

By Mr. Macdonald:

Q. That purports to be the work on which you were, does it not? I understand Mr. Doucet to say that cutting shown on the plan is the cutting you spoke about to us at a previous meeting?—A. Yes. Which way, Mr. Doucet, did we walk? This way or that way? (indicating on the profile).

Mr. DOUCET.—We walked from left to right.

The WITNESS.—From left to right, are you sure?

Mr. HODGINS.—What is the question?

Mr. MURPHY.—I am asking him to tell the committee whether he saw the material, and also to describe the material which he said the engineers told him had been classified as 86 per cent solid rock in that tunnel cut.

Mr. HODGINS.—He has told you he cannot identify the profile.

The WITNESS.—Before we got up to—I won't be certain. That may be the cut, it looks rather small though, that I first went to. That is the cut at station, 70 to 80.

By Mr. Murphy:

Q. Well, was the tunnel cut that you inspected, and that you have since twice described, the largest cut that you saw there, Major?—A. No.

Q. No?—A. That looks more like the cut but it appears to be small. Well, I won't be certain.

Q. Would you recall who were with you at the time you made an examination of that cut?—A. Mr. Doucet was there and the Italian sub-contractor.

Q. Who else?—A. Mr. Armstrong and Mr. M. P. Davis.

Q. Mr. M. P. Davis. Was Mr. Lumsden there?—A. No, Mr. Lumsden was in the carriage. He did not get out of the carriage.

Q. Is there anyone else that you can recall?—A. I cannot remember anyone else. There may have been one or two.

Q. You cannot remember anybody else but recalling those that were with you when you inspected the cut are you not now able to say that the cut on that profile—A. I should say that was the cut there (pointing to cut on the profile) between 70 and 80. It looks small perhaps. I was judging it from the slope, the upper slope.

Q. The cut between 70 and 80?—A. Yes.

Q. Is that a tunnel cut?—A. No.

Q. Was not the cut that you are now speaking of, shown on that profile between station 70 and 80, finished at the time you were there?—A. I cannot say now. I could recognize the cut on the ground but I could not recognize it on that profile. The cut was one mass of small boulders in the slope as it went up that way (illustrating by a gesture), it was just studded with small boulders all the way through. That is the only way I can trace it.

By the Chairman :

Q. You did not stop to examine it very long ?—A. Oh no.

Q. In your first evidence you said you merely went through it?—A. When I was asked how long I said 15 or 20 minutes, or something like that.

Q. It is not surprising that you cannot recognize it even on the profile because you don't remember about it ?—A. It is a very hard thing to locate the cutting on the profile unless you know the station and the mileage.

Q. You seem to have a good deal of difficulty in saying what cutting you stopped at and looked at ?

Mr. HODGINS.—On the profile.

The WITNESS.—On the profile.

By the Chairman :

Q. I know even on the profile. Is it not a fact that you did not pay much attention to it when you went through it ?—A. I paid enough attention to see that it was not solid rock and I was quite surprised at the estimate given.

By Mr. Murphy :

Q. Then, Major, are we to understand from you that you will not be able to identify it any more closely on the original profile itself ?—A. No.

Q. I beg your pardon ?—A. No.

By Mr. Macdonald:

Q. Assuming that the cut indicated by Mr. Doucet was the cut that was visited by you, perhaps you could indicate or tell us, on that assumption what you did see ? —A. What I saw ?

Q. Yes ?—A. Well supposing this is the cut. The upper slope went much higher, of course, than the centre, and it was the upper slope I looked at more than anything else and it was studded with boulders. Very often these boulders are called 'nigger heads,' or field stones.

Mr. MURPHY.—I think the witness is speaking of a cut different from the one identified by Mr. Doucet.

The WITNESS.—Which is the one ?

Mr. MACDONALD.—I asked him about the one Mr. Doucet identified.

Mr. MURPHY.—The cut shown on the profile between stations 70 and 80 was finished at the time he was there ?

The WITNESS.—Was this finished ?

Mr. MURPHY.—Yes. Mr. Macdonald's question has not been answered.

Mr. MACDONALD.—Does Mr. Doucet's plan indicate that this tunnel cut was not finished at the time ?

Mr. MURPHY.—The Major says the cut he and Mr. Doucet saw was finished.

The WITNESS.—No, I don't remember whether it was finished or not.

By Mr. Macdonald:

Q. You do not recall whether it was finished or not?—A. No. I think there was something left in the centre of it. I walked round the sides of it. I looked at that side and then at the other (illustrating on the profile) and then at the other end. I walked round the sides to see if there was not some way of throwing it out.

Mr. MURPHY.—The Major's evidence at page 128 makes it clear and definite (reads) :

'Q. Did you go right through it?—A. It was not through. I went into one end of it and walked over the upper portion of it and down to the other side.'

The WITNESS (indicating on the profile).—I walked over this portion here and down the side.

By Mr. Murphy:

Q. Do you remember in one of your statements in the 'Colonist' referring to 150,000 cubic yards being taken out of the cut?

Mr. HODGINS.—Is that in the letter or in the interview?

The WITNESS.—It is in the interview.

By Mr. Lennox:

Q. It should be 150,000 cubic yards?—A. Yes.

By Mr. Murphy:

Q. Do you remember that statement?—A. That cut was not——

Q. Was there 150,000 cubic yards in the small cut you are looking at?—A. No.

Q. Now look at the cut indicated by Mr. Doucet on that profile (Exhibit No. 35), the cut that you have described and say whether there was 150,000 cubic yards in that?—A. That would altogether depend upon the slope, how far the slope went—whether it was a 1¼ to 1, or 1 to 1, or 1½ to 1 slope. That side of the hill was fairly steep.

By the Chairman:

Q. Did you take time to examine the cut?—A. You see, when a man is accustomed to judging classification it does not take very long to examine the cut and find out the difference between solid rock.

Q. You cannot see the difference by looking at the profile?—A. Oh, no. You see, it does not take very long to judge a cut when you know the specifications and know what they mean, whether the cut is solid rock or loose rock. I would not take any longer to tell the difference than between a concrete house and a stone house.

By Mr. Hodgins:

Q. Between a brick wall and a stone wall?—A. I am putting it closer. Concrete is more like loose rock. We are looking at this from different view-points. The examination of that cut, in order to classify it accurately, would require quite a lot of measurements and a good deal of examination. To go through a cutting and to give an off-hand opinion you do not hit it very close. I could not attempt to hit within 5 or 10 per cent of another man's estimate; but what astonished me was——

Q. What about this distinct statement of 150,000 cubic yards? You made that statement, did you not?—A. I think it is confused. 100,000 yards would be more like it.

By Mr. Macdonald:

Q. Which was it you said, 100,000 or 150,000, do you recall?—A. I don't remember. This cut here (pointing to the profile) might run over that.

By the Chairman:

Q. But what was your statement?—A. I don't remember.

Mr. HODGINS.—His statement to whom, Mr. Chairman?

The CHAIRMAN.—The interview, I think it was.

Mr. HODGINS.—I don't think he has admitted it.

By Mr. Murphy:

Q. Well, Major, how was it you could give such an exact description of the cut, speaking here in your examination-in-chief, and having nothing before you, and now with the profile before you identified by the district engineer of that district you are unable to recognize it?—A. Well, it is quite easy to say that you cannot recognize a cut on the profile when you have not seen the plan or the profile of it before. This appears to me to be very much, from the shape of it, like the cutting I went through.

Q. But you have made some very serious charges with regard to this cutting, and

you are quite specific in your examination-in-chief, and again in your cross-examination, in describing the cutting and the material in it, and what the classification in your opinion ought to be?—A. I think, if I remember right, when we went through this cutting—when we were at that cutting—there was some talk about the slopes being taken down at a lesser angle than they were then. They were considered dangerous slopes.

By the Chairman:

Q. In your precis of charges you say—I want to make it clear so as test your memory—'In La Tuque cut, in District "B," there is a large cutting which was originally intended for a tunnel. This had a slope on one side of 120 feet and about 80 feet deep. There was no solid rock in place, so that a tunnel was an impossibility. Consequently an open cut was made. It was a very large cutting, containing about 150,000 cubic yards of material'?—A. Where is that, sir?

Q. In your statement. Now, how is it you there made such a specific statement as to the quantity of material, 150,000 cubic yards, and now you say you cannot do it?

Mr. LENNOX.—He did not say he could not do it.

The CHAIRMAN.—I asked him a few moments ago whether it was 100,000 cubic yards. He did not know whether it was 100,000 or 150,000.

Mr. HODGINS.—Surely we have the right to prove these charges by other witnesses?

The CHAIRMAN.—I think my question was fair. I wanted him to explain how it was he made that statement.

Mr. HODGINS.—I think the question was how could he make these charges without being able himself to swear to their accuracy.

The CHAIRMAN.—I wanted to test his memory, and asked him to give me his basis for making such a statement.

The WITNESS.—It is this way, sir (indicating on the plan). Supposing the slope of the hill comes down there. That is the slope of our cutting, you see, on that angle. A very much less number of yards would be required than if it went to that angle, because then the slope would run away up the hill.

By Mr. Macdonald:

Q. Did you make any statement at the time you inspected that cut as to what quantity of material it would contain?—A. Well, it might be anything.

Q. Did you make any estimate at that time?—A. No; I think I asked about it.

Q. What do you say?—A. I think I probably asked about it.

Q. Did you make any estimates yourself?—A. No; it is a fairly big cutting, though. It would run—the quantity would altogether depend upon the slope they eventually took out, whether 1¼ to 1, or 1 to 1, or 1½ to 1.

Q. Where did you get the material on which you base this statement in your letter, that there was 150,000 cubic yards?—A. One hundred to 150 thousand.

The CHAIRMAN.—No, you did not say 100 to 150 thousand. I think you mentioned——

Mr. HODGINS.—The charge is about 150,000 cubic yards, and the question, as I understand, was as to the witness' idea of the material in that cutting.

The WITNESS.—Well, I think when we were on the work at the time we discussed, we spoke of the big cutting——

By Mr. Macdonald:

Q. Who with?—A. That is what I am trying to remember, whether it was the contractor. I think I asked the contractor, and we spoke about the slope. Somebody said it would have to be taken down on a flatter slope on account of these boulders lying on the side; they would tumble down and fill up, and it would be dangerous if trains came through. In that way the slope would follow up the hill such a long distance.

Q. Did you get any information in the meantime, after you had made a personal inspection, before you wrote this letter to the paper and preferred these charges here?—A. No.

Q. You had no information as to quantity?—A. I went through that cutting, and I don't suppose I discussed it with anybody since I left Quebec.

Q. And the only ground you had for making the statement as to the quantity was what you had in your mind as the result of your visit?—A. Yes.

Mr. HODGINS.—And his conversation.

The WITNESS.—And the conversation; that if the slope of the cutting had to be taken back it would run into a great many extra yards, and I judged from the look of this slope as it stood there it would have to go back to a very flat slope to stand.

By Mr. Lennox:

Q. That is the kind of material?—A. The kind of material. It would be a continual source of worry to trainmen or engineers to have that.

By Mr. Macdonald:

Q. You did not know at any time, as a matter of fact, whether all this extra material was taken out?—A. No; but I think the engineer said, or the contractor said, it would have to be eventually taken out.

Q. The contractor said it would eventually have to be taken out, but you did not know at the time you made the statement in the press that it had been taken out?—A. I was perfectly certain it would have to go back to as flat a slope as you could possibly get it.

Q. Did you know as a matter of fact?—A. I knew it would have to go back, Mr. Macdonald.

Q. But you never knew that it had?—A. No.

By Mr. Lennox:

Q. You mean speaking as an engineer?—A. Yes.

Q. It would have to be done?—A. What I was thinking of was the boulders that had to be taken out of the slope, and as fast as you could take them out you would have found new boulders coming down which would be a detriment.

By Mr. Murphy

Q. Now do the answers given to the Chairman and Mr. Macdonald enable you to identify this tunnel cut which you have so minutely described on this profile?—A. No, I presume it was that. I don't remember this jog in it coming up the slope (pointing to profile), and coming over here, I don't remember a jog of that kind. There may be one.

Q. Do I understand you to say that the original profile itself would not assist you in identifying it?—A. I don't think so.

Q. You do not think it would?—A. You see I have never seen a profile of this cut before. I spoke entirely from memory and described it entirely from memory.

A. You made no sketch or anything of that kind on the ground?—A. No.

Q. You have never seen one since?—A. No.

Q. You have made inquiries, I understand, since about this tunnel cut?—A. No.

Q. None?—A. No.

Q. As to identifying it?—A. No, I spoke to Mr. Armstrong about it.

Q. Who is Mr. Armstrong?—A. He is a division engineer down there for the Grand Trunk Pacific.

Q. Yes?—A.. And I think I spoke to Mr. Doucet, I am not certain, when I came up here.

Q. What about?—A. About this——

Q. What did you speak to Mr. Armstrong about?—A. About this cut.

Q. Well, what was the conversation about?—A. Principally to find out who was in the party?—A. I asked him——

Q. Yes, but that was not for the purpose of identifying the cut?—A. No.

Mr. HODGINS.—You asked him a question. Let him give the answer.

Mr. MURPHY.—He has given it.

Mr. HODGINS.—No, you stopped him in the middle of it.

Mr. MURPHY.—I beg your pardon.

Q. That inquiry was for the purpose of enabling you to identify the cut?—A. Oh, no.

Q. Then you must have been certain about the cut?—A. I am certain about the cut. The cut on the work, not the cut on the profile—what I saw. You see I saw the cut on the work but this is the first time I have ever seen this profile. We went down——

Q. Now, if all the engineers who were there with you that day, as well as Mr. Doucet, identified the cut shown on that profile as the tunnel cut you describe would would you be any more certain of it then?—A. I should think that is the second cut, that is what I am going on. That is the second cut and this is the first cut (indicating on the profile).

Q. I am not asking you about the first or second, I am asking you about the tunnel cut of which you gave such a minute description?

Mr. LENNOX.—You had better hear what the witness has to say. You can have the cut identified by other witnesses and if necessary he can be recalled.

Mr. MURPHY.—I am cross-examining the witness.

Mr. LENNOX.—I am pointing out what is the fair way of putting the question. I do not think it is fair to ask him what has he got to say if a number of other witnesses states so and so.

The CHAIRMAN.—The witness has made a very rash statement in my opinion in giving the exact number of yards in this cut. Mr. Murphy is trying to cross-examine him to see if he took any precautions to assure himself that he was right before he made such a statement. I think he is perfectly correct.

Mr. LENNOX.—That is another point.

The CHAIRMAN.—It is a very important point.

Mr. LENNOX.—I say it is not fair to the witness to say to him that if a number of witnesses were to swear to so and so would he take a certain position. If the witnesses referred to do swear that Major Hodgins can be recalled with reference to it.

The WITNESS.—You see in this we are speaking of actual quantities. When we speak of the contents of a cut we give it in round numbers. You cannot——

By the Chairman:

Q. Yes, I understand?—A. We will say it is from 15 to 25 thousand yards, or 15 to 20 thousand, which is according to the amount of calculation or the measurements you have made.

Q. You have just stated you did not make any calculation at all?—A. No, I made a guess at it.

Q. And then you made the statement to the public?—A. There was between 100 and 150 thousand yards in it.

Q. Which is simply a guess at it?—A. Yes.

Q. And you allowed that to go abroad?

By Mr. Lennox:

Q. Is that what you mean?—A. That was in my interview, sir.

The CHAIRMAN.—Very well, go on.

By Mr. Lennox:

Q. I suppose you mean a rough estimate do you?—A. A rough estimate.

Mr. MACDONALD.—Does that mean that when Major Hodgins himself made that statement he did not know whether what he said was true or not?

Mr. LENNOX.—It was just a rough estimate.

The CHAIRMAN.—I am just pointing out that it is very dangerous to make a rough estimate in such a case as that.

Mr. HODGINS.—I do not think the other side will dispute the fact that that is the size of the cut when we come down to facts.

By Mr. Murphy:

Q. In your charges at page 41 of the printed record speaking of this tunnel cutting you say (reads):

'This had a slope on one side and about 80 feet deep. There was no solid rock so that a tunnel was an impossibility.'

Now I ask you if the cut between stations 70 and 80 on this profile would answer that description?—A. It would depend altogether upon the slope, the angle of the slope.

Q. Would that cut between stations 70 and 80 answer your description?—A. It is not 80 feet deep.

Q. It is not 80 feet deep?—A. No.

Q. Then it would not answer the description?

Mr. HODGINS.—About 80 feet deep he says in his charges.

By Mr. Murphy:

Q. And you proceed, major, to say (reads):

'It was a very large cutting containing about 150,000 cubic yards of material. The ground was a mixture of loose rock with some boulders and some earth and wet sand on top. There was no solid rock in place visible in June, 1907, so that anything that could be classified as solid rock would consist of large boulders over a cubic yard in dimension. This was classified as 86 per cent solid rock.'

I want you to show the committee on that profile where you saw the material that you have given this specific description of and said it was classified as 86 per cent solid rock?—A. If this is the cutting there, I saw the material on the inside of the cutting on the slope.

Q. I am asking you if the cutting between stations 70 and 80 was the cutting you described in your charge at page 41 of the printed record?—A. That is what I want to get at.

Mr. HODGINS.—He has already said that he cannot identify that profile.

The WITNESS.—I am of opinion it was a bigger cut than that.

Q. Taking this cut between Stations 70 and 80 I am asking you as an engineer, have you given the measurement of that comparatively?—A. You can measure it there comparatively.

Q. So as to ascertain the quantity, can you do that now and inform the committee?—A. It will take some little calculation.

Q. How long?—A. If I had a scale here I could take it out, or I could square it.

Q. Isn't there a scale on the profile?—A. Yes, but you have a profile scale with the quantities worked out per station and you can do it very quickly. These engineers can tell you what it is.

Mr. LENNOX.—I do not think there is any need to take up the time of the committee doing that.

A. You cannot get a decent estimate out of that unless I have the cross section; you must have the cross section.

Q. You must have the cross section for what?—A. To take out the quantity.

Q. Did you have the cross-section when you made that statement to the newspapers?—A. No, but I want the cross section now.

Q. You have the profile before you now and you can take it out?

Mr. HODGINS objected that the witness was unable to do so without the cross-section.

The CHAIRMAN.—I think, Mr. Murphy should be allowed to proceed with his cross-examination.

Mr. HODGINS.—The witness says he cannot give the quantities without having the cross-section.

Mr. MURPHY.—The witness has not said that he cannot. I think I have submitted to a great many interruptions by my learned friend and I think I should be allowed to proceed with my cross-examination.

Mr. MACDONALD.—We are not going to have any fighting between counsel you might as well learn that first as last, so you might as well get down to business.

Mr. HODGINS.—I think the witness should have some protection.

The CHAIRMAN.—The witness has all the protection he needs. I assume that the witness being an engineer ought to be able to protect himself in this matter. We do not want any unfair questions, but anyhow the only way to proceed regularly is for Mr. Hodgins to make his objection to questions to the committee and not to interrupt the other counsel.

Mr. MURPHY.—Or to steer the witness as to the answer he is to give.

Mr. HODGINS.—I have not done that ?

Mr. MURPHY.—Oh yes, repeatedly.

A. About 90,000 or 100,000 cubic yards.

By Mr. Murphy :

Q. How much, Major ?—A. 90,000 or 100,000 cubic yards, I have just squared it off.

Q. Would 100,000 cubic yards be the outside figure of that cut ?—A. It will depend on the slope, I think it had about ½ to 1 slope.

By Mr. Hodgins:

Q. Is the slope given on that profile ?—A. No. It depends altogether on the slope, how far up the hillside the slope should go.

By Mr. Murphy :

Q. What did you say would be the quantity in that, Major ?—A. It might run—

Mr. HODGINS. Am I right now in making the objection, after the witness has said that the slope must be given before he can make the calculation, and that the slope is now shown on the profile ? This question, without giving him the data is either useless or misleading.

The CHAIRMAN.—What was the question ?

Mr. MURPHY.—I am asking as to the quantity of material in that cut between station 70 and 80, as shown on the profile.

Mr. HODGINS.—I object that there is not sufficient data to enable the witness to make a calculation ?

A. When I was there we had not the profile, we discussed this thing generally and these were the figures I got when I was there.

By Mr. Murphy :

Q. With more data before you now than you had when you were on the ground ?—A. I can go into it more thoroughly; if I had this profile when I came down I could have gone into very much more details than I did.

Q. That is what I assume, with this additional data before you you can go into it more thoroughly and should have no trouble in telling what quantity there is in the cut between stations 70 and 80 ?—A. I say roughly from 90,000 to 100,000 cubic yards if the slope is not more than ½ to 1.

Q. That could not be a cut, according to your statement, that would be described as a tunnel cut ?—A. Yes, I think that is the cutting.

Q. You said that the other contained about 150,000 cubic yards ?—A. This is the one (indicating on profile). The one that I saw contained more than that, I do not know how much that would run to.

Q. Just identify that by stations, Major, please?—A. The cut from 70 to 80 would run about 100,000 cubic yards if the slope is ½ to 1, and this one at station 40, I could not tell, it will take a lot of calculating, it depends altogether on the slope.

Q. Do you now, Major, swear that the cut between stations 70 and 80 is the tunnel cut that you visited with the gentlemen whom you mention?—A. I cannot swear as to that.

Q. You can't swear to that ?—A. I cannot swear to that on the profile there.

Q. You say you can't swear to it on the profile ?—A. No, you see I haven't had the profile to compare with the ground at any time.

Q. Is the cut shown on the profile between stations 70 and 80 the one on the top of which you said was wet sand ?—A. I corrected that afterwards.

Q. No matter what your correction is, I am asking you if the cut on the profile between stations 70 and 80 is the one on which you say there was wet sand ?—A. It looks something like it; I take it because I do not remember that jog in there; it appeared to be a larger cut than that.

Q. I am asking you, Major, if the cut at Station 40, shown on this profile, is or is not the tunnel cut that you have described in your examination in chief, and in your cross-examination as having visited it with the engineers you mentioned ?—A. That looks something like the other cut.

Q. I am asking you if it is the cut ?—A. I cannot say.

Q. Will you swear that it is not ?—A. Well, I can't tell you that either.

Q. What is your answer, Major ?—A. This looks like the cut, there was a track down in one.

Q. The cut at Station 40 ?—A. One of these cuts had a track down it; if I remember right, I think that was the second cut.

Q. Was that the one that you described as the tunnel cut ?—A. I can't say, Mr. Murphy.

Q. Well, will you swear that the cut shown on this profile between Stations 10 and 20 is the cut that you have described as the tunnel cut ?—A. No, I cannot say that; that is why I asked Mr. Doucet if that wasn't the way we walked (indicating on profile).

Q. Mr. Doucet told you it was the opposite direction, from left to right.—A. We went up there, and then we went up to a rock cut, and coming down the northern track was over this way (illustrating).

Q. You have heard the evidence by Mr. Doucet identifying this cut at station 40 as the tunnel cut?—A. Yes, and it is marked 'tunnel cut' here and 'cancelled.'

Mr. HODGINS.—It is not marked 'tunnel cut,' but 'tunnel.'

A. I could not identify it unless I went on the ground.

By Mr. Murphy:

Q. And that is the tunnel cut of which you were speaking as the one in which you said you spent ten or fifteen minutes?—A. I forget who it was asked me how long I had been in there.

Q. I am not asking you who asked you, but that is the one you only spent ten or fifteen minutes in?—A. I was there as long as the other fellows.

Q. That is not what I am asking you. Isn't your statement that you spent ten or fifteen minutes in the cut?—A. I could not say exactly how long I spent in there.

Q. Was it not the tunnel cut in which you said you spent ten or fifteen minutes?—A. The cut I described as the one that had loose rock and stones on the slope of it.

Q. That is the tunnel cut?—A. Whether it was the tunnel cut or not I could not say.

Q. How long did you spend in the tunnel cut?—A. In the cut I am referring to?

Q. How long did you spend in the tunnel cut that you have described?—A. Do not put it in that way.

Mr. LENNOX.—The witness asks you to eliminate the word 'tunnel,' and I think he has the right to do so.

APPENDIX No. 5

By Mr. Murphy:

Q. What is the cut you are referring to?—A. That (indicating on profile) looks more like it, but it looks a little small.

Q. That is the cut between stations 70 and 80?—A. Yes, but I can't say it is the cut.

Q. Can you tell us what the classification of that cut should be between stations 70 and 80? What is your answer?—A. Can I tell you what the classification should be there?

Q. Yes?—A. That was not the cut.

Q. I am asking you what the classification of that cut should be—A. Do you want me to make a guess at it?

Q. I am asking you what the classification should be? You went over the ground and described it in your letter and in your charges, and now you have the profile before you?—A. You cannot classify from the profile.

Q. I am not asking you what you can classify from, but can you tell us now?—A. The classification?

Q. Yes, of that cut between stations 70 and 80?

Mr. HODGINS.—The witness says you cannot classify it from the profile.

The CHAIRMAN.—Let him say so, if that is the case.

Mr. HODGINS.—He has said so.

A. You must be on the ground to classify.

By Mr. Murphy:

Q. Can you tell us the classification of the cut shown on the profile at station 40?—A. No.

Q. Can you tell us the classification of the cut shown on the profile between stations 10 and 20?—A. I do not know what cuts they refer to. Nobody can classify by the profile, a man must classify on the ground.

Q. Did you do any classification on the ground when you visited there in June last?—A. You are judging classification from a lawyer's standpoint.

Q. I am not judging it at all. I do not know anything about it. I am taking your charges that you spread broadcast and ask you what you made the classification?—A. 40 per cent solid rock in the cutting I refer to would be a liberal classification.

By Mr. Lennox:

Q. You say 40 per cent solid rock in that cutting would be a liberal classification?—A. Yes.

By Mr. Murphy:

Q. You came to that conclusion after a ten or fifteen minute visit to the cutting you refer to?—A. You mean that I only spent ten or fifteen minutes there; you can't nail me down to time here.

Q. I am not nailing you down to any time; I am taking your own statement. How long did you spend in District 'B' altogether?—A. District 'B'?

Q. Yes, Quebec?—A. Oh, we were there, I forget what day we got down there—Monday, I think.

Q. No, no; I am asking you how long did you spend there altogether?—A. I think we were there the whole day; we got to La Tuque in the morning, and we drove off to the river and where some rock had been blasted into the river, and then we went up to the hill and drove over to this work; we had lunch there. It would be about half a day on the work.

Q. Is the cut that you refer to the one that you saw first after getting out of the carriages?—A. Yes, I think it was.

Q. You think it was. Do you remember that the visit to La Tuque was for the purpose of settling the location of the station grounds?—A. No.

Q. Do you remember the examination of the locality that day for the location of the station grounds?—A. No.

Q. Could that have been done, could an inspection of that kind have been made without your knowing it?—A. I think the station ground had been settled on before we went down there.

Q. I am instructed not?—A. I do not know anything about it.

Q. Do you remember seeing Mr. Parent there that day?—A. Yes.

Q. Do you remember a gentleman named Rousseau being with Mr. Parent that day, the member for Champlain?—A. I remember there was a member got on board at one of the stations as we were going out on the train.

Q. Did you see this gentleman on the ground afterwards?—A. They were all ahead of us.

Q. On the work?—A. No, they did not go off on the work.

Q. You were not visiting it alone?—A. No, but I think they all drove down to the contractor's camp while we were going over the work, only a small party got out and went over the work so far as I remember.

Q. Do you remember where you first went to after arriving at La Tuque?—A. Yes, we drove down to this place where they had blasted out some on the side of the river bank in order to lower the waters, the flood.

Q. Yes, and don't you remember an inspection then being made with regard to the location of those station grounds?—A. Down there, down at the river?

Q. In that neighbourhood, not at the river exactly but in that vicinity?—A. I walked back up to the top of the hill, and waited, I think, on the top of the hill for some little time, I did not see anything of any station grounds.

By the Chairman:

Q. With reference to that tunnel cut, how long did you spend there?—A. I have been trying to figure it out.

Q. Can't you remember how long you stayed there?—A. I walked in and looked at it, and then I spoke to a contractor—I do not remember how long.

By Mr. Lennox:

Q. Perhaps you can tell us in this way, you went there for the purpose of seeing this cut?—A. Yes.

Q. And you were all there for the same length of time?—A. Yes.

Q. For whatever time you thought to be necessary you took there before you came away?—A. I think we all walked through the cut together.

By the Chairman:

Q. You looked at it, you saw it, you went through the whole of the work and came back?—A. Yes.

By Mr. Lennox:

Q. So that you took whatever time appeared to be necessary?—A. Yes, and when I was asked the question, how long I was there, I did not think it out.

The CHAIRMAN.—It is a very important matter.

By Mr. Murphy:

Q. At page 280 you were asked:

Q. Is this the cut that you told your counsel you spent 10 or 15 minutes at?—A. I did not time myself, we walked over it.

Q. I am not asking you that. Is this the cut you said you spent 10 or 15 minutes in?—A. That is it.

Q. And during that time you had all this conversation and made the inspection of the cut you have told us about?—A. I did not inspect it, I walked into it and walked over it.

Q. And you gave a description of it?—A. Yes, I believe in that description I confused two cuts.

By the Chairman:

Q. Now, in 15 minutes anyway you went through it. Do you think you had time to make all these calculations that your charges——A. Leave out the 15 minutes.

Q. Say 15 or 20 minutes. You say here at page 41 of the synopsis of charges:

'In La Tuque, in district 'B,' there is a large cutting which was originally intended for a tunnel. This had a slope on one side of 120 feet, and about 80 feet deep. There was no solid rock in place, so that a tunnel was an impossibility. Consequently an open cut was made.'

You could not, at a glance, say that. Then you go on to say:

'It was a very large cutting containing about 150,000 cubic yards of material.'

A. Yes.

Q. You had ten minutes, in which to make the observations upon which you made those calculations?—A. Well——

Q. That is your evidence, I want to make that clear.—A. We discussed it, and I got all that information, while on the work there, at that particular place.

Q. You say:

'The ground was a mixture of loose rock with some boulders and some earth and wet sand on top?'

A. We walked over all this.

Q. Did you see in walking over it—is it possible you could say from what you saw in walking over it that it was 120 feet slope, 80 feet deep and that there were 150,000 cubic yards of material, that there was no solid rock, in place, that there was loose rock and some boulders and sand on top?—A. As you walk over it you ask questions.

Q. You asked questions, you did not see it yourself?—A. We were all talking.

Q. And you got your information from somebody else then in making that statement?—A. Possibly, or I may have seen it.

Q. I insist upon that, did you see that yourself, or did you get your information from somebody else?—A. I came away from that cutting with that information in my head.

By Mr. Hodgins:

Q. And you had never seen it before?—A. And I have not seen it since.

By Mr. Murphy:

Q. From whom did you get the information?—A. I do not know, I was discussing it, I do not know who, I went and spoke to the Italian. The party was walking through and we were discussing the cut, and we would all ask questions and answer questions as railway men will talk in going through a cutting that way. We were all railway men and agreed it was a most awful looking cutting and hard for the contractor to take out and that he ought to get all that was coming to him.

Q. Then you based what you have said rather on the information you received than on any knowledge you had?—A. Not altogether.

Q. To what extent then? What knowledge had you apart from the information you say you have got?—A. How do you mean, knowledge of what?

Q. Of this cut?—A. Judging from my eyes. I saw the cut and I walked through the cut.

By Mr. Macdonald:

Q. Did you make any memoranda?—A. No, I did not take a note.

By the Chairman:

Q. How could you remember all those exact measurements, 120 feet and 80 feet deep and 150,000 cubic yards ?

Mr. LENNOX.—He does not say that is exact, he says that is about.

Mr. MURPHY.—No, he says 'a slope on one side of 120 feet——'

Mr. LENNOX.—About 120.

Mr. MURPHY.—No, he does not say about 120 feet.

The CHAIRMAN.—Even if he said 'about' how could he say so many feet, like that, from such a short inspection, it is very singular.

A. Well, that was the easiest way I could describe the slope, to anyone but an engineer.

By Mr. Macdonald :

Q. Who told you what it was classified at ?—A. Mr. Doucet.

Q. Did Mr. Doucet think that the classification which he told you had been made was correct ?—A. Did he say it was correct ?

Q. Yes ?—A. I don't remember asking him.

Q. How did he come to tell you what it was classified at ? Did you ask him ?—A. I asked him, yes.

Q. Did you tell him you thought it was incorrect ?—A. No.

By Mr. Murphy :

Q. Do you know who made the original estimate of this tunnel cut to which you have referred ?—A. No.

Q. Do you know whether there was a change of location made on a portion of the work after you walked over it in June last, after the estimate was made ?—A. No, I could not say.

Q. You have told us though that the cut was originally estimated for a tunnel ?—A. That would be from the information I received on the ground.

Q. Do you know why it was changed to a through cut ?—A. Probably because there was no rock in it.

Q. But do you know ?—A. No—information I got on the ground.

Q. Then you have also said it was originally estimated at 30 per cent solid rock ?—A. That I heard on the ground.

Q. Well now, do you believe that the engineers in that district could have intended it for a tunnel if they had only estimated 30 per cent of solid rock in it ?—A. It was intended for a tunnel before they opened or started any work on it. You cannot estimate the amount of loose rock or solid rock in a cut exactly until the work is opened up.

Q. Then your statement does not refer to anything that was done before it was opened up ?—A. Before it was opened up it might have been the intention of the engineers to make a tunnel of it.

Q. Do you know when this estimate of 30 per cent of solid rock was made ?—A. No, I think they said about a couple of months after the cut was started—I am trying to remember, but I cannot say whether it was a sub-contractor or who it was on the work told me that.

Q. But in your statement to the paper you say that it really had been laid out as a tunnel, but when they found there was no solid rock in the place they abandoned the tunnel idea and took it out as an open cut.—A. That is right is it not, that it what I understood was the original intention.

Q. Do you know that the abandonment of the tunnel idea was an improvement and was a benefit to the line ?—A. Well, if it was solid rock I should have imagined it was an improvement to have had the tunnel there.

Q. If it had been solid rock ?—A. That is a matter one would have to go into carefully and consider the two propositions separately on the plans and profiles. I

presume the engineers in striking out the tunnel considered they were doing the best thing, they must have had some reason for it.

Q. But you have stated that there was no solid rock visible in June, 1907 ?—A. I did not see any solid rock.

Q. You did not see any, and you have also told us that the division and resident engineers are the proper persons to classify the work on their divisions and residencies?—A. Yes, they can classify closely.

Q. For the reason that they are constantly on the work and see the changes in the material taken out from day to day.—A. Yes, they have the experience, and if the resident has not experience he can very soon gain it by discussing classification with his next senior, but the resident engineer should be the one to classify.

Q. Because he sees the material taken out from day to day and observes the changes in the material ?—A. Yes, as a rule there is not very much difference on railways between the classification of two engineers.

Q. Then the engineers who were on the work and who made the classification should be better able to speak about it than you, Major ?—A. They ought to be, if they classify properly.

Q. Can you swear that the classification was not made by the division or resident engineers ?—A. No, I do not know, I did not see them make the classification.

Q. Did you see any estimates for the work when down in Quebec ?—A. No.

Q. Have you seen any of them here ?—A. No.

Q. Will you swear that Mr. Doucet classified these cuts that you have been speaking of ?—A. No, I do not know anything about it.

Q. Or that Mr. Grant classified them ?—A. No, I cannot say that, I did not see them classified, I have not seen it.

Q. Had you signed any of the estimates before you made that statement that the classification was 86 per cent of solid rock ?—A. No, I simply took the——

By Mr. Lennox:

Q. You had not seen them at all ?—A. No, I took the statements of the engineers given to me down there.

By Mr. Macdonald:

Q. Where did you learn that the cuttings were originally classified at 30 per cent ?—A. Down on the work.

Q. Who from ?—A. I am trying to remember. I think it was the sub-contractor. It was either the sub-contractor or Mr. Armstrong.

Q. It would be from him that you knew that, because you had no other means of information as to what that original classification was except this person whose name you cannot now remember ?—A. It would be Mr. Armstrong or the sub-contractor.

Q. What sub-contractor ?—A. It would be the Italian.

Q. The Italian sub-contractor ?—A. At least I don't know whether he was the sub-contractor. He spoke to me as the man who had charge of the work there.

Q. It was the Italian sub-contractor or Mr. Armstrong, you are not certain which one?—A. No, they both ought to know, the man who does the work and the man who is looking after the classification for the Grand Trunk Pacific.

Q. You did not ask Mr. Doucet how it was there was this difference did you ?—A. No.

Q. You made no inquiries of any kind ? You did not ask Mr. Doucet as to what was the original classification ?—A. No.

Q. Or whether there was any change ?—A. No.

By Mr. Murphy :

Q. And your classification, Major, referred to the day of your visit only ?—A. Yes.

Q. Now could you swear that a week or a month previous to that visit, 70 per cent or 80 per cent would have been too liberal a classification to return——A. I was judging from the look of the slope of the cutting.

Q. That is not what I am asking you. I am asking you whether you would swear that a week or a month previous to your visit 70 or 80 per cent of solid rock would have been too liberal a return to make for that cut?—A. I don't know how I could swear when I was not there.

Q. That is what amazes me. Is it not a fact that every cut is classified every day and that the classification may change from day to day?—A. I don't think a cut is classified every day.

Q. That the material that comes out is classified every day as it comes out?—A. I don't think so; it would be impossible. If a man has ten miles how can he classify every cut on it? I mean if the resident engineer has ten miles.

Q. I am not asking you that?—A. But you are asking me.

Q. Are there not records made every day as the material comes out?—A. No.

Q. On which the classification is based?—A. No.

Q. Well, at what intervals are these records made?—A. It just depends upon the cutting. The resident engineer is responsible for his classification, and if he has got any measurements to make he has got to make them in such a way that they are correct. When all his cross-sectioning is done he is supposed to make a trip over his work, theoretically once a day; I don't think they do it in practice. They do it as often as they can. They have a lot of work, odds and ends, but they are supposed to go over the work, if it is only to have an intelligent idea of what the classification should be. In some cuttings, where there are lots of boulders, I believe they put on men to measure them, but it would be impossible for one man to measure up the classification that you are referring to just now every day.

By Mr. Macdonald:

Q. Do I understand you to say, Major Hodgins, that this phrase 'Quebec classification,' as it has been used in the course of this investigation, arose out of what you saw at La Tuque that day?—A. I don't know——

Q. You what?—A. I don't quite catch your question.

Q. The phrase 'Quebec classification' seems to have had some special significance in the course of your letter and interview and through the course of this investigation. What is 'Quebec classification'?—A. Quebec classification?

Q. You have heard the phrase, have you not?—A. Yes.

Q. Well, was that phrase 'Quebec classification' one which arose out of what you saw in La Tuque that day?—A. I don't think so.

Q. Well, where did you get it?—A. I think I heard it spoken of before I went—before I left.

Q. Yes?—A. And western classification.

Q. Well, are we to understand that what you saw at La Tuque that day caused you to use the expression that 'Quebec classification' was being subsequently applied in the west?—A. Possibly, yes. It was just—it should be classification in Quebec. That would have been the more distinct term to use.

Q. I understand that that observation of yours at La Tuque that day was the only personal observation you had of any classification in the Quebec district?—A. Personally, yes.

Q. At any time?—A. Yes, at any time; but I had a long discussion with Mr. Armstrong about the classification in that district on the following Sunday in Quebec city.

Q. You did not discuss it with Mr. Doucet?—A. No, I did not see him.

By Mr. Hodgins:

Q. That was before you returned from this La Tuque visit?—A. Yes.

By Mr. Murphy:

Q. You have also said, in speaking of this cut, that there was a large boulder in it which would measure some 200 cubic yards?—A. I did not see that. In talking of the amount of solid rock——

Q. You did not see it, somebody told you?—A. The largest boulder they had uncovered was 400 yards.

Q. Now, after that boulder was removed by blasting, the whole thing, would there be any trace of it left in the cut?—A. No; it would just depend where they got it. If it was on the slope, there might be some trace of it afterwards if in the middle of the cutting.

Q. Can you swear that previous to your visit to La Tuque there were not other large boulders of the same kind removed and no trace left?—A. How can I swear that?

Q. I am asking if you can?—A. No, I cannot.

Q. And you have also stated that the cut consisted of loose rock and boulders in the end?

Mr. Hodgins.—Where are you quoting from?

Mr. Murphy. Pages 128 and 129. The witness said, as reported at page 128: 'The western end, I think it was, we first came to was a mass of loose rock, boulders.'

Q. Do you remember that, Major?—A. Yes.

Q. And, basing your opinion upon that, you have stated that you think 40 per cent would have been too liberal a classification—40 per cent of solid rock?—A. Yes, very liberal.

Q. Very liberal. Now, I will show you some photographs, Major——

Mr. Hodgins.—Now, Mr. Chairman, I am going to object to the production of these photographs unless they are properly proven.

Mr. Macdonald.—You can exhibit the photographs.

The Witness.—When was this photograph taken?

Mr. Murphy.—That was taken——

Mr. Hodgins.—I want the photographer to say when he photographed the cutting and from what point.

Mr. Murphy.—I will ask Mr. Doucet as to that.

Mr. Macdonald.—Your proper course would be to exhibit the photographs to the witness, and then if you want to prove them, do so.

By Mr. Murphy:

Q. I want you to say, Major, looking at that photograph (handing photograph to witness)——

Mr. Hodgins.—Pardon me a moment. I had an experience the other day when my learned friend produced something that he said he was not going to put in and then asked a question about it, and then the statement went in. I submit this is not evidence at all. Unless my learned friend is prepared to prove it, this photograph is not something he can put in and question the witness about.

Mr. Macdonald.—That is absolutely quibbling, and you know it very well.

Mr Hodgins.—I do not know it very well.

Mr. Macdonald.—Then your experience is different from mine.

Mr. Hodgins.—That may be.

Mr. Macdonald.—The question as to whether that shall be treated as evidence or not is one of proof afterwards. Mr. Murphy has a perfect right to submit the photograph to the witness.

Mr. Hodgins.—I submit that he has not.

Mr. Macdonald.—Then I will rule against you myself.

Mr. HODGINS.—I make this objection on account of the experience I had the other day.

The CHAIRMAN.—Supposing the witness can recognize the place?

Mr. HODGINS.—That is a very different thing. My learned friend is putting in the photograph as if the witness recognized it.

Mr. MACDONALD.—He has a right to submit it to the witness. If the witness does not recognize it, then Mr. Murphy must prove it.

Mr. HODGINS.—Then my objection is withdrawn if it is not put in unless the witness recognizes it.

Mr. MURPHY.—Not unless this witness identifies it?

Mr. HODGINS.—Yes.

The WITNESS.—This is not the cut I was referring to (after examining photograph). I do not recognize this as the cut I was referring to.

By Mr. Murphy:

Q. You do not recognize it as the cut you referred to? Well, now, if you were shown a photograph of the cut you did refer to would you recognize it?

Mr. LENNOX.—That is not a fair question.

Mr. HODGINS.—Hardly a fair question.

A. The ground looks so different in the photograph.

By Mr. Murphy:

Q. Everything looks different now, I know that. Could you tell us from looking at that photograph whether 40 per cent solid rock would be a liberal estimate?—A. I would never, never estimate a cut in a photograph.

Q. I beg your pardon?—A. I would never estimate a cut in a photograph.

Q. Just by eye?—A. It depends upon what sort of estimate you want. If you want a close estimate I would have to go down and measure it, but I can give a quick enough estimate on——

Q. Would the cut shown in the photograph be estimated fairly liberally at 40 per cent solid rock?—A. Ask me something easy.

Q. Can you say, or what do you say?—A. I could not say anything at all about it from that picture. I don't know where this rock came from that is lying in front.

Q. I am not asking you that?—A. It is very material if you are going to estimate it.

Q. Since the rock is in the cut it doesn't matter?—A. Yes; but here is a lot of rock piled up here. How do we know it has not come from the cut on the other side?

By Mr. Macdonald:

Q. Assuming it came there naturally and was not improperly placed there, what would you say?—A. You don't know how far it goes under this bank; you could not classify it without——

By Mr. Lennox:

Q. Could you estimate it by that photograph?—A. Oh, dear, no; could not begin to do it.

By Mr. Murphy:

Q. Can you tell us, major, whether the cut shown in this photograph that I am exhibiting to you shows more rock than was in the cut that you referred to at the time of your visit?—A. That is not the cut that I referred to.

Q. I am asking you if this photograph of a cut shows more rock than there was in the cut to which you referred at the time you visited it?

Mr. HODGINS.—This cut has not been identified. It may be anything from Dan to Beersheba.

Mr. MACDONALD.—It is a perfectly legitimate question.

The WITNESS.—Without knowing how much rock there is in that—unless I knew how much rock there was in that——

By Mr. Murphy:

Q. From the appearance in of the cut in that photograph?—A. You cannot judge.

Q. Can you tell us what classification there would be of loose and solid rock?—A. If you are standing at this end of the cut you cannot judge it, you have got to get into the cut. You are looking at it from the outside.

Mr. HODGINS.—It looks like a photograph of the scene of the explosion on the line the other day.

The WITNESS.—This gives you no idea. You don't know how many feet, you don't know how far it runs in that way (indicating on the photograph).

By Mr. Murphy:

Q. You did not get into the cut referred to except at either end and then walked over it?—A. We walked in.

Q. Does this photograph look like the type of cut over which you walked?—A. I could not remember that.

Q. Does it look like a sand cut?—A. Apparently there is—I don't know whether there is sand or not on the other side. It looks like common excavation on one side.

Q. The right hand of the cut as it faces you?—A. I could not say from the photograph whether it was sand or mud or clay.

By the Chairman:

Q. Do you mean that this part would be common excavation (pointing to photograph)?—A. That part looks like it.

Q. This part here?—A. You don't know what size the boulders are or the loose rock; you cannot tell from the photograph.

Q. Having looked it over for some minutes does the photograph recall to you the cut that you have been referring to?—A. It does not.

Mr. MURPHY.—Then I would ask that Mr. Doucet identify the photograph.

The CHAIRMAN.—Mr. Doucet has been sworn.

Mr. HODGINS.—The photograph should be identified.

The WITNESS.—I will take Mr. Doucet's word.

Mr. HODGINS.—Pardon me, I am counsel in this case.

The CHAIRMAN.—We will see what Mr. Doucet will say.

Mr. DOUCET, recalled and further examined.

By Mr. Murphy:

Q. Will you just explain to the committee what this photograph is that I have been showing to the Major, and state when it was taken?—A. I think that is the cut, taken in April, 1908, April last.

Q. Yes?—A. The top of the cut is practically the same as when Major Hodgins was there. The bottom, of course, has been changed, but in the month of July we stopped working on the top and continued from both ends.

Mr. HODGINS.—That rules it out. The visit was paid in June, 1907, and the photograph was taken in April, 1908.

The WITNESS.—The top is the same.

Mr. MURPHY.—They stopped in July, 1907, and the top of the cut, the witness says, is the same.

Mr. HODGINS.—Let me say here that I object to calling Mr. Doucet in the middle of Major Hodgins' cross-examination to identify something. If Mr. Doucet is called ultimately, and that photograph put in, I am not going to object, because then I will

have the right to cross-examine him. But I object to his identifying a photograph at this stage and then presenting it to the witness who has alrealy said that he does not understand it.

Mr. MACDONALD.—I do not think Mr. Doucet should tell any more than the date on which the photograph was taken, at this stage.

Mr. MURPHY.—The witness has stated that the work on the cut which the Major has been referring to was stopped in July, 1907. He said that this photograph directly represents the top of the cut as it was when the visit was made.

Mr. MACDONALD.—Mr. Hodgins' objection is to the further examination of Mr. Doucet. You have identified the photograph and you can ask the Major, if you like, as to that date.

Mr. MURPHY.—Very well.

Q. I show you a second photograph of the same cut, Major——

Mr. HODGINS.—Not for the purpose of putting it in, I suppose?

The WITNESS.—That is not the cut.

Mr. MURPHY.—I am asking the witness: 'Do you identify that?'

The WITNESS.—Whereabouts is that?

Mr. MACDONALD.—Do you not think you had better go on with Mr. Doucet and identify all the photographs?

By Mr. Murphy:

Q. Mr. Doucet, you have produced a second photograph of the cut to which Major Hodgins has been referring. I ask you to explain to the committee what this photograph is and when it was taken?—A. It was taken in April, 1908, and it is the west end of that tunnel cut which was cancelled.

Q. It is the west end of the tunnel cut which we have been speaking about?—A. Taken in April, 1908.

Q. And what does it show?—A. It shows the cut—the way it has turned out at the present time.

Q. Is there any part of the cut the same as it was when the visit of Major Hodgins, yourself and others, was made in June, 1907?—A. This part here (pointing to photograph).

Q. That is on the left of the photograph facing you?—A. Yes. At present that cut has turned out solid rock.

Mr. HODGINS.—I object to my learned friend putting in his case now. I think I should have the chance to put in mine first.

Mr. MURPHY.—I am only asking him to identify the photograph first.

Q. What other photographs have you of the same cut?—A. This is another photograph of this cut (producing photograph).

Q. This third photograph is what?—A. That is the west end of the cut.

Q. The third photograph is the west end of the cut?—A. Yes.

Mr. LENNOX.—You had better mark them as a, b, c, &c.

Photographs put in and marked Exhibits a, b and c.

Q. This photograph marked c showed what?—A. The west end of the cut. The north slope of the west end of the cut.

Q. Of which cut?—A. This tunnel cut, cancelled.

Q. And is that the cut to which we have been referring?—A. That is the cut to which you have been referring.

By Mr. Hodgins:

Q. How do you identify those photographs?—A. They were taken by my men.

Q. You were not there?—A. No.

By Mr. Murphy:

Q. And what is this photograph (producing photograph exhibited)?—A. This is the east end of the cut.

Q. The east end of which cut?—A. Of this same tunnel cut which was cancelled.

Q. What does it show?—A. It shows the east end of the cut.

Q. At what stage of the work?—A. Well, there has been very little done in there since Major Hodgins was there—the east end.

Q. Since when?—A. Since June, 1907.

Q. Now, is there any part of the work shown in this photograph b in the same condition as it was when you made a visit in June, 1907?—A. This must be the sand referred to by Major Hodgins.

Q. Where?—A. The top is still the same as it was in June, 1907. There are the cars and carts.

Q. And is it close to these cars and carts? You say the sand is the same as was referred to by Major Hodgins?—A. Yes; there is the slope referred to.

By Mr. Macdonald:

Q. Do you recognize in these photographs a reproduction of the ground as it was known to yourself?—A. Perfectly.

Mr. Hodgins.—I would like to reserve my cross-examination upon these photographs until they are properly proven. I don't think they could be proven by a man who did not see them taken.

By Mr. Murphy:

Q. Have you been over the ground since the visit of last year?—A. Yes, often.

Witness retired.

Examination of Major Hodgins resumed.

By Mr. Murphy:

Q. Now, Major, having seen these photographs, marked for the time being a, b, c and d——A. They do not remind me of the cut.

Q. Do they recall anything further to you of the material in that cut?—A. They do not remind me of the cut I refer to—that I have got in my mind. (After examining photographs again.) They do not.

Q. They do not?—A. No.

Q. Well, looking at the work as shown in these photographs, could you say now what would be a fair classification?—A. Oh, no; I could not. I would not classify by photographs. I would not give you a classification by a photograph.

Q. You could not get any percentages at all then as to classification?—A. No.

Q. From these photographs?—A. No, there is nothing to go by.

Q. Do you remember telling us there was a track down one side of the cut to which you referred?—A. Not the one I referred to, one of the other cuts.

Q. Which other cuts?—A. I think it was—we passed a couple——

Q. I did not get your answer, Major?—A. We passed a couple of cuts, and I think there was a track down the slope. It is this profile reminded me of it. It may possibly have been down that slope there (pointing to profile).

Q. That is the slope of the cut shown at what station?—A. 40.

Q. In the profile?—A. Yes, but that is not the cut I referred to.

Q. Look at photograph b showing some tracks. Are those the tracks you referred to?—A. No, there was not that amount of work done.

Q. Well, you observe that there are a number of men shown in the cut in photograph b?—A. Yes.

Q. Do you recognize among them the Italian sub-contractor to whom you spoke?—A. No, I could not.

Mr. HODGINS.—Are you sure that is not where the explosion occurred the other day ?

Mr. MURPHY.—Quite sure.

The WITNESS.—No, I cannot recognize him.

By Mr. Murphy :

Q. You cannot recognize him ?—A. No.

Q. He was only a chance acquaintance ?—A. I think we dined at his camp afterwards and he gave us some very sweet champagne.

Q. I see, treated you ?—A. Treated us all. There was a big party there. I think it was his camp.

Q. Now have you made any inquiry since your visit as to the actual percentage of solid rock that was returned from the cutting to which you have been referring ?—A. No, I have not had any means of getting at it.

Q. You had what ?—A. I think I asked Mr. Doucet, I am not certain.

Q. And what did he tell you ?—A. He laughed and said I was all wrong.

Q. Said you were all wrong ?—A. Yes. I am not certain——

Q. Would you be surprised to learn that up to the end of May, 1907 there had been returned in the cut to which you refer a percentage of solid rock of only 29 per cent ?—A. Twenty-nine per cent ?

Q. Yes ?

Mr. HODGINS.—You said the cut to which he referred.

Mr. MURPHY.—Yes.

Mr. HODGINS.—That is hardly fair.

Mr. MURPHY.—Why ?

Mr. HODGINS.—Because you do not identify the return.

Mr. MURPHY.—I am asking him about the cut to which he refers.

Mr. HODGINS.—Have you given him the cut to which he refers ?

Mr. MURPHY.—The cut which he has been speaking about.

Mr. HODGINS.—I submit we are entitled to have that question put, giving the exact station to which my learned friend refers when he says 29 per cent was returned.

Mr. MURPHY.—We cannot blow hot and cold in that fashion. When we give him the station in the profile he recognizes nothing.

Mr. HODGINS.—I want you to tie yourself down to something.

Mr. MURPHY.—I am tieing the witness down to something. I am tieing him down to the cut which we have described. He has stated to the committee that in his opinion 40 per cent would be a liberal classification, and that he was told it was classified at 86 per cent. He was in the cut with the engineers looking at it.

Mr. HODGINS.—Identify the 29 per cent ?

Mr. MURPHY.—I am asking him if he would be surprised to learn that 29 per cent of solid rock was all that had been returned for that cut to the end of May, 1907 ?

Mr. HODGINS.—What cut ?

Mr. MURPHY.—The one he has been referring to.

The WITNESS.—I don't think it could be the same one.

By Mr. Murphy :

Q. I am asking you what you have to say as to that return of 29 per cent ?—A. Principally boulders or ledge. Was it ledge or boulders ?

Q. I am asking you which it was ?—A. I think it was ledge.

Q. In the estimates is there a distinction drawn between ledge and boulders ?—A. Yes.

Q. In the estimates ?—A. Yes.

Q. Is there a separate heading for each ?—A. No.

Q. It is returned as solid rock, isn't it?—A. Yes.

Q. I am asking you if you would be surprised to learn that until May, 1907, there was only returned 29 per cent of solid rock in that cutting?—A. In ledge, yes; in boulders, no.

Q. You have told us there is no such distinction as that drawn in the estimates? —A. You mean in the estimates sent in?

Q. I mean in the estimates?—A. But there should be.

Q. There is not, as a matter of fact.—A. If you ask the engineer on the work he can tell the difference between ledge and boulders.

Q. I am not asking that. You made the estimates when you were on the work? —A. Yes.

Q. Did you make any distinction in your estimates?—A. What kind of estimates are you referring to? These rough estimates I have been giving you?

Q. The estimates you sent in from month to month?—A. Those are made by the engineer on the work.

Q. Did you make any distinction in those sent in from your district?—A. I think I told them to keep a record of it.

Q. I do not care what you told them, did you make that distinction?—A. We did not put it on the estimates sent in.

Q. You did not put it on them?—A. No.

Q. Then we have wasted all this time for nothing?—A. Why?

Q. Because there must be a difference?—A. It should be in the estimates, because it is very difficult in going over the work——

Q. It should be?—A. Certainly.

Q. But it was not in yours?—A. No, I do not think so; you can tell now and then in going through a cutting and seeing no ledge rock, and 100 yards of solid rock, one would naturally assume which were boulders, but in any mixed cutting which would be ledge and then run into a loose rock cutting you would get them crowded up together, so in reality they ought to be kept separate.

Q. But when the return was sent to the commission it was under the heading of 'solid rock'?—A. Yes.

Q. Would you be surprised to learn that up to the end of June, 1907, the highest percentage of solid rock in that cutting you have been speaking about was 32 per cent? —A. Which cutting?

Q. The one at La Tuque that you visited with the engineers and on which the discussion took place?—A. How much?

Q. 32 per cent.

Mr. Hodgins.—Since those papers have been quoted to the witness and he is asked to answer upon them, I think that the return should be produced, otherwise counsel may get an unfair advantage by making an assertion that when the returns are produced he may not be able to prove.

Mr. Murphy.—We have been trying to have it identified in the evidence of the witness who identifies it in particular references, and we are speaking now about the cut itself.

The Chairman.—What was your question?

Mr. Murphy.—Whether the witness would be surprised to learn that the highest percentage of return of solid rock in the cutting he has been speaking about to the end of June, 1907, was 32 per cent.

Mr. Lennox.—If there are progress estimates returns, as counsel suggests, he should have them here, and on those estimates the witness could be examined, but in their absence I think he should not.

Mr. Macdonald.—I do not agree with you at all, I think counsel has a perfect

right to ask the question, and when he comes to that part of his case he may put in the statement.

The CHAIRMAN.—The witness makes statements about that, and Mr. Murphy asks him if he would be surprised that a certain percentage was the highest returned; the witness can answer just as he likes about it.

Mr. MACDONALD.—The witness says he did not know anything about the classification, he could not even tell us who told him how it was classified, he saw one or two people, but couldn't state which it was told him.

A. Mr. Doucet told me the classification.

By Mr. Murray:

Q. On what cut did he tell you that?—A. That loose rock cut.

Q. What was the loose rock cut ?—A. It was the cutting that I went into—it is very hard to locate it on the profile or the station, if I had the station on the ground and the cross-cut I could have located it.

Q. That is the same cut, the tunnel cut, that you have been speaking of?—A. It has been spoken of as the tunnel cut. They told me that this cut I was looking at was originally laid out as a tunnel, but when the contractors opened it up——

By Mr. Macdonald:

Q. Do you say as a matter of fact that the progress estimates disclosed that the tunnel cut in the month of June, when the witness was there, did not have any classification more than 32 per cent of solid rock?

Mr. MURPHY.—Yes, 32 per cent for the month and 29 per cent for the month previous.

Mr. HODGINS.—I ask that these estimates be produced.

Mr. MURPHY.—They will be produced. Outside of the photographs altogether there is only one cut mentioned in the charges, and my question relates to that cut, and the returns refer to that cut.

A. I think the cut you are referring to is the second one we went through.

By Mr. Murphy:

Q. No, Major, it is the first one ?—A. No.

Q. I am speaking about the cut that you yourself described in your charges and evidence.—A. It is not the shape of the cut that I went through.

Q. There is nothing the same as it was last June, I know that.—A. Then why do you show me that.

Q. These are accurate, that is why.—A. If the jog in there was there last June it would be there now.

Mr. LENNOX.—I think that counsel had better refrain from that kind of commenting. These remarks are uncalled for.

Mr. MACDONALD.—The Major might have a great deal of difficulty in answering what he did months ago, but when he read those letters that difficulty might be removed. I do not think it is out of the way for counsel to mention a fact.

By Mr. Murphy:

Q. What is your answer to that, Major ?—A. What is your question ?

Q. As to whether or not you would be surprised to learn that the highest percentage returned for solid rock for the cutting you have been describing, and of which we have been speaking, was along in the month of June 32 per cent?—A. That was near my estimate of it, 40.

Q. Would you be surprised to learn that was the return in solid rock for the month?—A. In boulders, no.

Q. I am not asking you about boulders, but solid rock ?—A. No, I say solid rock and boulders, no.

Q. You are trying to draw a distinction, you yourself told us wasn't in the estimate?—A. If there had been any solid rock in situ I would have seen it.

Q. I am not asking you that. Just answer the question. In the estimates there is one return made for solid rock, that is under the heading 'Solid Rock' ?—A. Yes.

Q. Let us confine ourselves to that, that is what I am speaking about. Would you be surprised to learn that the return of solid rock in June, 1907, for the cutting you visited at La Tuque was 32 per cent?—A. I would say it was about right if it was that.

Q. You think it would be about right ?—A. It ought to be right, you see that would be near my estimate.

Q. You yourself would be disposed to allow a more liberal return?—A. Oh, you see I could not guess.

By Mr. Macdonald:

Q. Major, if the returns for the month of June, 1907, show that the solid rock was only classified at 32 per cent, then the statement in your charges that it was classified at 86 per cent is wrong, is incorrect?—A. The statement of Mr. Doucet you mean is incorrect.

Q. You are making the statement in the charge, you say it was classified 86 per cent solid rock?—A. Yes, you see I went on his statement. My statement would be wrong, and Mr. Doucet's statement would be wrong, too. He was my informant.'

Q. That is if Mr. Doucet said it, we have not heard what he has to say about it. We are dealing with what Major Hodgins says in these charges here, and I want to direct his attention to the fact that the return was 32 per cent solid rock instead of 86 per cent.

Mr. MURPHY.—32 per cent is the highest, it was 29 per cent for May and 32 for June.

By Mr. Murphy:

Q. Now, can you give an instance of a mixed estimate for a tunnel having been made when the materials to be excavated were supposed to be 30 per cent of solid rock and the remaining 70 per cent some other material?—A. Could I give you what?

An instance of a mixed estimate of that kind?—A. How do you mean, I do not quite understand you.

Q. I mean, if you can give us an instance of a mixed estimate having been made for a tunnel where the solid rock was supposed to be 30 per cent and the remaining 70 per cent, some other kind of material?—A. I do not know what you mean by mixed estimate.

Q. Well, say a mixed classification, or a classification of a mixed cut?—A.Can I give you an illustration?

Q. Give me an instance, yes?—A. An instance of where an estimate has been made of a tunnel?

Q. For a tunnel where the material was 30 per cent solid rock and the remaining 70 per cent some other material?—A. No. I do not think I have anything like in my mind.

The CHAIRMAN.—Any other cut or any other material?

Mr. MURPHY.—In a tunnel principally, Mr. Chairman?—A. No, I cannot.

Mr. Murphy:

Q. Can you give me an instance of that kind, Major?—A. No.

Q. Well, then, can you give us an instance where a tunnel was made through a district, or through a cut where there was mixed material in it?—A. You mean a lined tunnel?

Q. I do not know, I mean a tunnel on a right of way?—A. You have to line a tunnel as a general rule, that is through mixed material. There was a cored tunnel on the C.P.R., or a tunnel through mixed material and they eventually had to abandon it.

Q. You have said that this particular cut at LaTuque was originally estimated for a tunnel?—A. It was laid out for a tunnel; well, estimated for a tunnel by the location man, I suppose.

Q. But what do you know about it?—A. That is what I was told.

Q. Can you explain to the committee how it could have been estimated for a tunnel on only 30 per cent of solid rock?—A. I could not explain that.

Q. What would the remaining 70 per cent be?—A. If a tunnel had been put through this cut I was in, it would have required to be lined.

Q. It would, which?—A. It would require to have been lined.

Q. To have been lined?—A. Yes, and then when you line it you run into all sorts of expense and trouble, it is not easy work running a tunnel through material of that kind.

Q. What is you answer?—A. It is no easy matter runing a tunnel through mixed material, it is expensive work.

Q. You cannot give us any instance such as I have been asking you for?—A. Not that I can recollect just now.

The committee rose.

MONDAY, June 15, 1908, 8.30 p.m.

The committee resumed.

Mr. MURPHY.—Referring to the discussion that took place this afternoon, Mr. Chairman, about the correspondence between Major Hodgins and Mr. Butler, I made inquiry of Mr. Butler, who is confined to the hospital, and apprised him of what the committee had decided with regard to Mr. Aylesworths' correspondence and the correspondence of Mr. Commee. I then inquired regarding Mr. Butler's correspondence with Major Hodgins, and I am in receipt of the following letter (reads) :

ST. LUKE'S HOSPITAL,
OTTAWA, June 15, 1908.

CHARLES MURPHY, Esq.,
Barrister, &c., Ottawa.

DEAR SIR,—Referring to your inquiry about the correspondence between Major Hodgins and myself, I beg to say that I am willing to produce it if Major Hodgins informs the investigating committee that he waives any privilege that may attach to the correspondence in question being marked 'Private and confidential.' I have already given him copies of the two letters. As I may be confined to the hospital for a couple of weeks, I could not personally produce the correspondence before the expiry of that time.

Yours truly,

M. J. BUTLER.

My learned friend this afternoon said that on receipt of a letter from Mr. Butler he would be willing that this correspondence be produced?

Mr. HODGINS.—I suppose you have a letter from Mr. Conmee saying the same thing?

Mr. MURPHY.—No; I understood the chairman would see Mr. Conmee.

The CHAIRMAN.—I have not seen Mr. Conmee yet, but think I shall see him to-night.

Mr. MURPHY.—Mr. Butler states that he is willing to produce these letters if the 'private and confidential' seal is removed.

Mr. MACDONALD.—Very well. When they are here will be time enough to discuss their production.

APPENDIX No. 5

The cross-examination of Major Hodgins resumed:

By Mr. Murphy:

Q. We were speaking before adjournment, Major, of the classification in District 'B,' and of a particular cut to which you have referred in your charges and described in your examination-in-chief and in your cross-examination. I would ask you to tell the committee briefly just what, in your opinion, the classification of that cut ought to have been?—A. Well, I cannot give the classification in detail very closely.

Q. It was a mixed cut, was it?—A. A mixed cut, yes.

Q. Well, give it as closely as you can?—A. Well, it was what I put down then as loose rock cutting, pure and simple.

Q. It was what you put down at that time as loose rock cutting?—A. At that time, yes.

Q. May I take your answer as meaning that, in your opinion, that it should have been classified as loose rock?—A. With the exception of whatever boulders there were, over the specified size, of solid rock.

Q. And how should they have been classified?—A. Solid rock.

Q. Can you give us the percentage?—A. No, I could not give you the percentage.

Q. You could not do that?

By Mr. Lennox:

Q. Repeat that answer?—A. No, I could not give the percentage.

Q. You said that you would classify it as loose rock cutting and something more?—A. Except the boulders over a cubic yard.

By Mr. Murphy:

Q. I understand you to say, Major, you could not give the percentage of either?—A. Not exactly.

Q. In your examination-in-chief, as reported at page 128, you referred to this cut as a very nasty looking cut. Would you just explain what you mean by that?—A. That means it was a hard cut to take out.

Q. A hard cut to take out?—A. Yes.

Q. Well, in what respect was it a hard cut to take out?—A. It was full of these small boulders, and it would make it difficult in placing the blast—that the contractors always have a certain amount of trouble when they get into a cut of that kind. It is a very difficult cut to judge the most effectual place to put in the charges, and altogether the handling of it.

Q. It was difficult, you say, to judge the place to put in the blasts?—A. It is a difficult cut for a contractor to handle. I know they always complain of cuts like that. They do not like to get them carrying on the work, any work.

Q. And that is what you mean by the phrase 'a nasty looking cut'?—A. Yes; from a contractor's standpoint.

Q. Could it have been ploughed?—A. Oh, no.

Q. It could not?—A. On the level, of course, it might have been ploughed ; but the way the formation lay there, it could not have been ploughed. That is, from a practical standpoint, no one would ever think of making a contractor plough it.

Q. In your opinion, as an engineer, what do you think the cost per yard would be of taking out that cut?—A. Oh, well, that is a question that can only be answered by men who have watched the cutting coming out.

Q. That can ony be answered by some engineer or some man on the ground seeing the work done?—A. Yes. The exact cost, you see, to get——

Q. Could you express any opinion regarding that?—A. The cost?

Q. Yes?—A. I don't know what the wages——

Mr. LENNOX.—Would that be a proper part of our inquiry now?

Mr. MURPHY.—It seems to me it would.

The WITNESS.—I don't know what the wages would be in Quebec.

Mr. MURPHY.—However, the witness says he cannot say.

Q. There were tunnel cuts in your district, of course?—A. Yes.

Q. Had you seen any cut up there like the one you have described as having visited at La Tuque?—A. No.

Q. Any mixed cuts?—A. Oh, there were mixed cuts, but we had not run into any tunnel in the mixed material. The approaches to some of the tunnels might have been mixed.

Q. Was there any cut in your district——A. Similar to that?

Q. Similar to this one at La Tuque?—A. I don't think so. It is an exceptionally bad one, in my opinion, at La Tuque.

Q. You do not think there was one?—A. No. There are some bad cuts up there, but I think that was a tougher one.

Q. This one at La Tuque, you think, was a tougher one?—A. Yes.

Q. Now, have you told us, Major, about all the classification that you saw in District 'B'?—A. I think so; that I gave any particular notice to.

Q. And I presume it is only the classification that you gave particular notice to that you can speak of?—A. Yes.

Q. In your charges you have stated that when you saw the Quebec classification creeping into your district you took exception to it?—A. Yes, that is excessive classification.

Q. Then that must have been on the same kind of work as you saw in District 'B,' was it not?—A. No.

Mr. HODGINS.—Where is that statement to be found?

Mr. MURPHY.—He said so in his evidence. I have not it identified in my printed copy, but I have in my notes.

Q. You remember making that statement, Major?—A. No.

Q. You don't remember making that statement, that when you saw the Quebec classification creeping in you objected?—A. I am just looking around to see.

Q. At page 130 of the evidence given in your examination-in-chief, appears the following (reads):

'Q. From what you saw in Quebec, in that district, were you prepared to adopt that standard of classification as applying to your district?—A. No, what I saw and heard.'

Mr. HODGINS.—What he heard is what he states.

Mr. MURPHY.—I cannot find the reference in the printed evidence, but I have it in my notes.

Q. In your letter to the *Colonist* you state (reads):

'Mr. C. A. Young, Commissioner for Manitoba, then advised that I should go to Quebec, and see how things were managed in that district, where contractors were not kicking and get an object lesson. I went and returned determined not to allow Quebec classification to be introduced into the western district as long as I remained in charge. This, of course, led to trouble and I got no assistance from the chief engineer . . . . .

'If Monsieur Poulin, the engineer appointed by Monsieur Parent to replace me on the western district, has allowed the introduction of classification similar to that in Quebec, this will account for an increase in the estimated cost of the line. If this increase amounts to three or four million dollars (33⅓ per cent). It is time the public demanded some explanation from the government.'

Q. Do you remember writing that, Major?—A. Yes.

Q. Does that recall the other statement I have been asking you about, when you discovered the Quebec classification was creeping in you objected to it?—A. What is that again?

Q. If you recall making the statement that when you discovered the Quebec classification was creeping in in your district you objected to it?—A. Yes.

Q. On what class of work did you discover the Quebec classification was creeping in ?—A. Well, it was the jump that McIntosh was giving in his division.

Q. Oh, he is the individual in connection with whose work—— A. Yes.

Q. But I am asking what is the character of the work in connection with which you said you found it was creeping in ?—A. The character of the work ?

Q. Yes ?—A. It was the stripping of the rock cuts, principally, the stripping of rock cuts.

Q. Any other material ?—A. Earth and loose rock excavation returned as solid rock.

Q. Well now, does that bear any resemblance to this work in Quebec ?—A. It was not similar, the way it was of course it would come under the heading of loose rock, but that loose rock cutting, that cutting in Quebec I have referred to, was a very hard one, and the stripping that McIntosh turned into solid rock was not of the same degree or hardness in my opinion.

By Mr. Macdonald :

Q. That is the cutting in Quebec ?—A. Yes, that cutting in Quebec was a bad one.

By Mr. Murphy :

Q. Are you aware, Major, that the question of classification in Quebec, some time after your visit, came up for discussion between all parties interested ?—A. Yes.

Q. And are you aware that a visit was paid there some time in October last by the representatives of the Transcontinental Railway and the representatives of the Grand Trunk Pacific?—A. I am not aware of the date.

Q. But you are aware that there was a visit?—A. Yes, I have seen it in some of the papers.

Q. Where?—A. On the file here.

Q. That is in some of the papers that have been produced?—A. Yes.

Q. Were these the same papers to which you referred in your previous examination as having seen legal opinions given regarding classification there?—A. Yes.

Q. Then having seen these opinions you are also aware that following the visit to that district in the fall of last year, and following the giving of these legal opinions an interpretation was given by the chief engineer of the Transcontinental Railway?—A. Yes.

By Mr. Lennox:

Q. When did you become aware of this? Since the investigation or before?—A. Well, I think, just about the time of the investigation.

Q. I am speaking of the investigation we are having here. Was it since commencement of this investigation that you became aware of it?—A. Just about the commencement of it, I got it in papers I received from Mr. Murphy.

Q. Papers that are produced here in this investigation?—A. Yes.

Q. I do not think we ought to go into this evidence. The papers themselves are the best evidence we can get on this matter?—A. I heard something of it——

Q. You heard something of it, tell us what it is you heard.—A. I think I heard something about opinions, legal opinions from Mr. Armstrong when he first came up, that is the day I first got down here.

Mr. LENNOX.—I submit we ought not to go into this, it is all hearsay, if it becomes evidence at any time we will get proper evidence upon it from Mr. Armstrong or the documents.

Mr. MURPHY.—I am not going into that question here.

Mr. LENNOX.—You are framing questions upon it and getting on the record.

Mr. MURPHY.—I am asking what knowledge he had of classification in Quebec of which he has spoken.

By Mr. Murphy:

Q. You had some conversation when at La Tuque with the chief engineer of the Transcontinental Railway regarding classification, Major?—A. No.

Q. Didn't you ask him something about it?—A. No. I went to him; I was going to have a discussion and ask him what his opinion was, or if he had seen some of the cuttings down there.

By Mr. Macdonald:

Q. Is that Mr. Wood?—A. No, Mr. Lumsden.

By Mr. Murphy:

Q. You are aware that there was afterwards a difference of opinion between the chief engineer of the Grand Trunk Pacific and the chief engineer of the Transcontinental Railway regarding classification in that district, are you not?—A. Yes.

Q. And you have seen the interpretation of the Chief Engineer of the Transcontinental Railway?—A. Yes.

Q. And you have referred to it in your evidence?—A. Yes.

Q. And you have mentioned that had you seen it before it would have modified your views?

Mr. HODGINS.—He did not say that.

By Mr. Murphy:

Q. What was it you said as to that?—A. I do not just remember what words I used, but it was this, that if that opinion was in force when I was down in Quebec I could have accounted for the classification of that cutting.

Q. I see, I see. Well, knowing that opinion now what have you to say about the classification you saw in that cutting?

Mr. HODGINS.—Which opinion?

Mr. MURPHY.—Mr. Lumsden's.

Mr. HODGINS.—I would like you to quote the opinion to the witness, there are three opinions of Mr. Lumsden's.

Mr. MURPHY.—I am referring to the opinion that the witness himself refers to.

Mr. MACDONALD.—Is it the one he has referred to himself.

By Mr. Murphy:

Q. Having seen the opinion——

Mr. PARENT.—There was only one opinion given by the chief engineer.

Mr. HODGINS:—No, two.

Mr. PARENT.—Only one.

By Mr. Murphy:

Q. Having seen that opinion of the chief engineer of the Transcontinental Railway, what have you to say now as to the classification at La Tuque?—A. Well, I think two opinions can be given about the chief engineer's interpretation of the solid rock specification. I think possibly it would come under the head of what Mr. Lumsden now calls 'assembled rock.' His definition of assembled rock was very vague and undivided in that under the term assembled rock, well, that cutting was certainly an assembling of what I called this afternoon 'nigger heads,' small stones about the size of a man's head. If that interpretation of Mr. Lumsden's idea of assembled rock is taken that might be considered as solid rock, because he gives——

Q. That is, this La Tuque cutting might be considered solid rock?—A. Yes, he gives——

Mr. HODGINS.—I would like if the opinion be produced when referred to.

A. He gives six items of what he now calls solid rock. When I was there this interpretation had not been given. I think you said it was given in January, wasn't it?

Q. Yes.—A. And No. 5, of Exhibit No. 38 (54), this a copy——

Mr. PARENT.—These were all produced before the House.

A. Mr. Lumsden gives a diagram, No. 1, 'rock in ledges,' which is not specified. Then No. 2 is 'rock in boulders over one cubic yard; No. 3 is 'conglomerate rock or plum pudding stone'—it is a question what that is, plum pudding stone—No. 4, 'detached ledge rock is mass over one cubic yard'—that is the same as boulders, whether it is square or round—then comes No. 5, 'rock in masses of over one cubic yard,' and then in brackets '(assembled rock) which in the judgment of the engineer can be best removed by blasting.' Then down below the description is a foot note of the classification which refers to 5 and 6 and says this: 'To form a judgment as to whether or not it is best removed by blasting, the chief engineer must view the work in progress or leave it to be decided by the engineer in charge, whose duty it is to frequently visit the work during its operation and be governed thereby and act accordingly.'

According to my interpretation of that, the chief engineer must view the work in progress, that is, himself, therefore he leaves it to the decision of the engineer in charge.

Q. And says so?—A. And says so, that is the engineer in charge is the supreme authority according to this interpretation. Have you his opinion of assembled rock there?

Q. Here it is (handing document to witness).—A. This is what he gives in his letter of January 9, 1908 (Exhibit No. 38 (53) :

'The Commissioners of the Transcontinental Railway,
'Ottawa, Ont.

'SIR,—I have to-day been handed by the secretary a copy of a letter from the Deputy Minister of Justice, dated the 6th instant, with respect to my interpretation of clauses 33, 34, 35 and 36 of our general specifications. After fully considering his remarks in regard to the words after 'rock assembled' (the individual pieces of such assembled rock exceeding one cubic foot in size). I have concluded in deference to his remarks these bracketed words might be omitted, as also the words 'not covered under clause 34,' in items 1 and 2 under the heading loose rock.

'My interpretation of these clauses will now be as follows:—

"'Clause 34.—Solid Rock Excavation.

"'Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which in the judgment of the engineer, may be best removed by blasting."

'I am of the opinion that rock found in ledges or masses, as specified, must (firstly) be rock, and (secondly) it must be in ledges, conglomerate form (known as plum pudding stone), boulders, or ledge rock displaced (in pieces each exceeding one cubic yard in size) rock assembled, also shale rock, such as in the judgment of the engineer may be best removed by blasting.

'I attach a diagram in explanation of the above, which in my opinion is all that is included under clause 34, solid rock.'

Clause 35, Loose Rock.

'"All large stones and boulders, measuring more than one cubic foot and less than one cubic yard, and all loose rock, whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials that cannot, in the judgment of the engineer, be ploughed with a 10-inch grading

plough behind a team of six good horses properly handled, and without the necessity of blasting, although blasting may be occasionally resorted to, shall be classified as 'loose rock.'"

'Under this heading I would include:—

'(1) All large stones and boulders more than one cubic foot and less than one cubic yard.

'(2) All loose rock in situ or otherwise that may be removed by hand, pick or bar.

'(3) All cemented gravel, indurated clay and other materials that cannot, in the judgment of the engineer, be ploughed with a 10-inch grading plough behind a team of six good horses properly handled, and without the necessity of blasting, although blasting may be occasionally resorted to.

Clause 36—Common Excavation.

'"Common excavation will include all earth, free gravel or other material of any character whatever, not classified as solid or loose rock."

'This interpretation was made by me after consulting with Mr. Collingwood Schreiber, General Consulting Engineer to the Government.'

And the diagram he attaches to that letter.

Q. From which you have been quoting?—A. Rock in mass of over one cubic yard, assembled rock, which, in the judgment of the engineer, may be best removed by blasting—the diagram shows rock of all sizes; they are classed together.

Mr. Hodgins.—Then there is a different opinion of the 16th of December?

A. Yes, he changes his opinion of assembled rock, and he doesn't give the exact size.

By Mr. Lennox:

Q. He omits the question of size?—A. He has really shirked the question of assembled rock.

By Mr. Murphy:

Q. He defines that, does he not, Major?—A. He defines it; the Deputy Minister of Justice corrected him, and he——

Q. It was overlooked in that letter of January 9, and referred to later on?—A. The trouble is here, he does not say what rock assembled is; in his opinion, before this, he said what rock assembled was to be. Have you got it here?

Q. It is all there, I think?—A. That would be the crux of the whole thing. Mr. Lumsden should explain what 'rock assembled' is; but I should take it that the words 'rock assembled,' that is taking it for granted that Mr. Lumsden is right in his interpretation of the specification, he changes the interpretation he has given to his engineers, they are bound to follow it out, and if they want a further interpretation they should go to him. If it is plain enough, I suppose they can use their own judgment, but they are not to put in any further interpretation of assembled rock except that which is given in this diagram, which reads this way: 'No. 5, rock in masses of over one cubic yard (assembled rock), which, in the judgment of the engineer, can be best removed by blasting.' That might or might not be taken to cover the classification of that cutting.

By Mr. Murphy:

Q. But it mentions further on what size the boulders may be?—A. No.

By Mr. Lennox:

Q. How do you think it covers that; is it where it says there, as you read it, 'over one cubic yard in diameter'?—A. It does not say 'in diameter,' but 'rock in

masses,' those are the words; and this word 'masses' comes in again, 'rock in masses over one cubic yard,' and then in brackets 'assembled rock,' do you see?

Q. It is pretty hard to know what he does mean?—A. Now, if the individual pieces of rock, assembled rock, are to be taken and treated separately, Mr. Lumsden should have said so, but he does not; he says 'rock in masses,' and then in brackets '(assembled rock)'; that is to say, what he means by 'rock in masses' is 'assembled rock,' and that is the point, you see. On No. 5 I think you can argue two ways. He adds down here at the foot, he shifts his own authority as official arbitrator to the shoulder of the engineer in charge when he says: 'To form a judgment as to whether or not it is best removed by blasting, the chief engineer must view the work in progress or leave it to be decided by the engineer in charge.' The provision that the chief engineer must view the work in progress would mean that he would have to view it often enough to get a sufficiently intelligible idea of it to form that judgment.

By Mr. Murphy:

Q. I think, Major, the masses to which you refer, regarding the size of the rock, is referred to in the letter of the Deputy Minister of Justice of the 6th of January, 1908?—A. Yes.

Q. In which he says——A. He states the point there.

Q. He says: 'The specification speaks of rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting. If "rock assembled" may be regarded as a mass of rock and if it may be best removed by blasting, I do not see why, under the specification, it is material whether the individual pieces exceed or are less than one cubic foot in size'?—A. He is right.

Q. 'and if "rock assembled" is not regarded as a mass, the minimum limit of size which can be classified as solid rock exceeds one cubic yard. It seems to me, however, that these questions are largely engineering questions, the solution of which depends principally upon the judgment of the engineer, having regard to the terms used in this specification'?—A. He gives you two points there, you see, and does not give anything more. He gives two points to work on.

Q. And that is adopted by the chief engineer in his letter of January 9, which begins: 'I have been handed, by the secretary, a copy of a letter from the Deputy Minister of Justice, dated the 6th instant, with respect to my interpretation of Clauses 33, 34, 35 and 36 of our general specifications. After fully considering his remarks in regard to the words after "rock assembled," the individual pieces of such assembled rock exceeding one cubic foot in size, I have concluded, in deference to his remarks, these bracketed words might be omitted, as also the words "not covered under Clause 34," in items 1 and 2 under the heading "loose rock.' Then he proceeds to give his interpretation?—Yes; well, as to the Deputy Minister's query, the Deputy Minister says: 'If "rock assembled" may be regarded as a mass of rock and if it may be best removed by blasting, I do not see why, under the specification, it is material whether the individual pieces exceed or are less than one cubic foot in size, and if "rock assembled" is not regarded as a mass, the minimum limit of size which can be classified as solid rock exceeds one cubic yard.' The Deputy Minister says 'if.' and Mr. Lumsden, in giving his third opinion, does not mention any size. Therefore, the engineer, I should take it, under Mr. Lumsden, has to follow Mr. Lumsden's interpretation as best he can, unless he gets a further interpretation from Mr. Lumsden.

By Mr. Hodgins:

Q. That is regardless of size?—A. Regardless of size.

By Mr. Macdonald:

Q. What do you understand the opinions of thes various gentlemen mean, are

they the interpretation of what the words are in the specification?—A. I gather they are the interpretations of the word 'mass' in the specification, that is the question, the whole thing rests on that question, and when I read that letter I had no idea of how these legal opinions, or Mr. Lumsden's interpretation of the specification were, I was going on the old definition, the one you will find that Mr. Lumsden gave as his interpretation of the specification prior to this, and that would agree with mine.

By Mr. Hodgins:

Q. Of the 16th of December?—A. I do not know whether I have it here now. But the whole question is really as to the interpretation as to whether it is best removed by blasting. Why all material of that kind is best removed by blasting in some cases, as I pointed out the other day, it is a good thing to shake up earth by blasting, you do not remove earth out of the pit by blasting, and you do not remove rock by blasting, unless you waste it.

By Mr. Lennox:

Q. You may 'move' rock, but you do not 'remove' it?—A. It has to be finally moved and put into the dump. But Mr. Lumsden on this diagram here says, 'The Chief Engineer must view the work in progress.'

By Mr. Murphy:

Q. Or——A. 'Leave it to be decided by the engineer in charge,' and that means that if he is going to judge it he must view it whilst the work is in progress, that is he must make sufficiently frequent trips on the work while it is in progress in order to be able to judge. Most of the chief engineers would judge by going down at any time, the chief engineer, as a rule, would be able to tell you, if you took him up to a cut whether it was best removed by blasting, whether the cutting was out or whether the men were working in it, he would have some idea while it was in progress, we get more or less accustomed as to how work should be handled although we are not expert quarrymen, or not so much accustomed to the use of powder as the contractor is, so as to be able to give a judgment. I might say what the classification should be and if it does not run into very great figures it would be within 10 per cent.

By Mr. Macdonald:

Q. That is, you give him the benefit of the doubt?—A. We always give the contractor the benefit of the doubt, because these amounts do not count very much one way or the other.

Q. Do the specifications in regard to solid rock vary very much in the different railways with which you have had to do?—A. Not very much, this is the greatest variation I have ever seen.

Q. I mean does the specification in this case very much differ from what you have seen in other railways?—A. Yes, for instance, I have had cemented gravel sometimes that is worse to take out than some classes of solid rock, and I have had to ask permission from my superior to allow a certain amount of solid rock, and he would have to get permission from his superior to allow a certain amount of solid rock.

Q. To allow cemented gravel as solid rock?—A. To make a special point of it so that we could allow solid rock for cemented gravel, not all cemented gravel, because some is not as tough and cemented or as hard as other cemented gravel, and you have to judge. It does not amount to very much that you give the contractor extra in such cases, but it helps him out and he has the idea that the engineer is liberal, but they are really very small items.

By Mr. Lennox:

Q. You mean that on works on which you have been engaged before cemented gravel would sometimes be classified as solid rock?—A. In special cases where we got special permission.

Q. That is not what I want. Is cemented gravel ever classified under the specifications as solid rock?—A. I could not say from memory, but as a rule it is not. It used to go under a separate heading, under the heading of 'hardpan,' but then again we used to get into trouble with hardpan, because the contractors would claim that different classes of material were really hardpan and to get a specification with the least objection, and that can be followed throughout you require to have a specification with as few things in it as possible.

By Mr. Macdonald :

Q. You would leave it to the judgment of the engineer?—A. Look at it from this way, not an engineering standpoint: take the earth and common excavation as 30 cents, loose rock as 60 cents, and solid rock as $1.70. There is too much difference between the loose rock and the solid rock. It is too much of a jump and that is why I said the other day there ought to have been a middle price or the loose rock should have been raised. That loose rock price is too low without an intermediate price in there and that is what led to all the trouble. You can see that if the difference between loose rock and solid rock is $1.10, the different classes of hard material that would come under loose rock would—I cannot explain it very well.

Q. I quite see ?—A. You see the point I mean. That is the whole trouble in this, the question of what is loose rock and solid rock.

Q. Because there is quite a disparity in the prices ?—A. Exactly. Now in the case of that cut at La Tuque I made use of the words 'heart breaking.' There was a very very hard cut there. That is as hard a cut as I have seen on the line anywhere for some time, and in my opinion, according to the specifications, during the time I was there the 60 cent material would break any contractor.

Q. He could not get out at that figure ?—A. Absolutely he could not have begun to do it. It was a question for the chief engineer to decide .

By the Chairman:

Q. That is the cut you called a very bad cut ?—A. Exactly.

Q. That is the one you have described in your charges in this way: 'The ground was a mixture of loose rock with some boulders and some earth and wet sand on top'? —A. Yes, I should have left the sand out. I corrected it afterwards.

Q. There was no solid rock in place visible in June, 1907, so that anything that could be classified as solid rock would consist of large boulders over a cubic yard in dimension.' That is what you called a very bad cut ?—A. Yes.

By Mr. Macdonald :

Q. Mr. Lumsden had a certain view about what these specifications meant?—A. Yes.

Q. Some issue was raised over that and it was referred to three counsel. Is that right, Mr. Murphy ?

Mr. MURPHY.—No, the different contractors got opinions from counsel and sent them in.

The WITNESS.—That is the way I take it. The contractors evidently did that according to the opinion given. The chief engineer and the engineers in Quebec disagreed on the interpretations of this specification. The chief now practically has given as his opinion, as far as I can make it out, the opinion of the engineers in Quebec. First of all he said they were absolutely wrong and refused to sign the estimates in November. In January he says they are all right.

Q. In the meantime these legal opinions were placed before him ?—A. Exactly. I have no doubt——

Q. He changed his view?—A. He changed his view on this legal opinion. It is not for me to say whether the legal opinions are right or wrong. There is a very important question comes in there and I don't know whether I am here to——

Q. It only shows the complexity of all these questions of classification to the lay mind ?—A. I don't consider I am here to argue the Grand Trunk brief or anybody else's brief.

Mr. LENNOX.—I don't think you are here to argue any side.

The WITNESS.—When I wrote that letter I did not know anything about the chief engineer's new opinion. Now as far as I can make out, I have not examined the work in Quebec or I have not gone into this question of 'assembled rock' very closely to see what it really means, but I am informed by engineers that Mr. Lumsden's opinion covers that work.

Q. I see. That is this description that he has laid down in that document?—A. And I might say further I am very glad it did.

By Mr. Hodgins :

Q. What is that you say ?—A. I am very glad it did.

By the Chairman:

Q. Now, that Quebec classification which you objected to see creeping into your district, Major. On what did you base your objection to it——?—A. You see, sir——

Q. Let me finish my question. On what did you base your objection? Was it on what you saw yourself during your trip or what you heard from some other persons ?—A. On my trip?

Q. Yes, you said you objected to the Quebec classification creeping into your district ?—A. Yes.

Q. On what did you base your objection to the Quebec classification ? Was it from what you saw ?—A. What I saw, yes.

Q. What you saw there ?—A. Yes.

Q. About that cut you spoke about especially ?—A. Yes, and Mr. Grant had been up in the district and as far as I could gather from questioning the engineers he had directly or indirectly suggested to them that they should raise their classification, and spoken of how things were classified in Quebec. I was getting answers to some questions that Mr. Lumsden had asked me to get when I got notice to go and I did not get all those. Some of the engineers said that he had not seen them. Other engineers said that he had seen them and had not said anything to them, and other engineers said he said a good deal to them: and I connected that classification, that jump in classification or the rise in classification with Mr. Grant, that he had brought it up there from the Quebec district; but the question of 'masses' was never raised. The clause that Mr. Lumsden and the legal gentlemen have given opinions on was never raised in those days.

Q. Did you consider that the examination that you had made in the work there was sufficient to enable you to express an opinion on the classification?—A. On that cutting? Certainly, sir. It is a pure and simple rock cutting according to the old interpretation, a loose rock cutting. The old interpretation of the specifications was that that had to be rock in ledges or boulders of over a cubic yard except by the engineers in Quebec—I will qualify it by that. That was Mr. Doucet's opinion at the time I was there, and it is his opinion now. I did not know what his opinion was in those days. He has stuck to his opinion, but Mr. Lumsden has changed his.

Mr. HODGINS.—I scarcely think, Mr. Chairman, that your question to the witness was put in proper form.

The CHAIRMAN.—What I wanted to know was whether he formed his opinion on the classification in Quebec from what he saw there?

The WITNESS.—Formed my opinion on the classification ?

Q. Yes, you say you objected to the classification?—A. Yes, and what Mr. Armstrong told me down there.

Q. Not only what you saw at Quebec but what Mr. Armstrong told you?—A. Yes, and the conversation with Mr. Grant.

By Mr. Murphy:

Q. Did you have any conversation with Mr. Grant in Quebec?—A. No, I don't think so.

Mr. MURPHY.—The witness says now that he had conversations with Mr. Grant.

The WITNESS.—Not in Quebec.

By Mr. Murphy:

Q. Not in Quebec?—A. Well, I did have conversations with him, but I don't remember what they were about.

By Mr. Macdonald:

Q. Well, Major, this question of classification which had been raised with you in July in the two divisions.—A. Yes.

Q. You found material was being classed as solid rock?—A. Yes.

Q. Which you thought should be loose rock?—A. Yes, they had been—they had been reported, as I pointed out here the other night, month after month as common excavation and loose rock.

Q. Did you certify to the July returns?—A. Yes, you see I just came up from the east. I just had time to sign these estimates and send them down. I think I got up one day and signed them and sent them down the next.

By Mr. Hodgins:

Q. You sent them with a letter?—A. They had to be in Ottawa on the 8th and I was delayed coming up to Toronto. I started to get up there sooner but——

By Mr. Macdonald:

Q. You sent them in with a covering letter ?—A. A covering letter, and I just had time to glance at this extraordinary statement, that McIntosh has put in with Form 4, showing that he had transferred certain items to the solid rock column.

Q. Who was this letter from?—A. McIntosh. I think it is Exhibit 8, is it not?

Q. We have that letter?—A. You have the exhibit here.

Q. Would that transference be in accordance with the view which had been since expressed by these lawyers and Mr. Lumsden?—A. No, I did not look upon it—no, some of it might come under——

Q. Some of it might ?—A. But that earth never should go in as solid rock.

Q. A portion of it, I suppose, would be covered by the interpretation of Mr. Lumsden and the lawyers ?—A. It was stripping. I would not say that until I went up over the work and looked over it again.

Q. Again ?—A. Yes. It is a question—you see it is not much of a guide. I want to point——

Q. Mr. Lumsden's opinion, of course, changes the whole thing. If you were working under that opinion now you would have to take a very different opinion ?—A. I would want Mr. Lumsden to describe what he means by that [pointing to diagram, sketch No. 5, Exhibit No. 38, (54).]

Q. You would want a fuller explanation of diagram sketch No. 5 ?—A. Now who can tell me what size any one of these boulders are. They might be the size of a pigeon's egg.

Q. Mr. Lumsden would have to tell you that. I don't think anybody around this board knows ?—A. There is nothing to tell you what assembled rock is, because you have to take it from this. Now numbers of them would form a bunch of boulders together——

By Mr. Hodgins :

Q. Does it represent earth ?—A. No, indurated clay. To me that represents a rubble wall, it does not represent any material that is found in an ordinary rock cutting.

By Mr. Macdonald :

Q. Of course, that changes the whole classification idea ?—A. Absolutely.

Mr. HODGINS.—Yes, upon that point.

The WITNESS.—I can argue upon that point, that same classification, or I can just sit down and discount the argument I put in and knock them all to pieces.

By Mr. Hodgins :

Q. Take another view ?—A. Yes. Do you want me to do that, Mr. Murphy ? According to my interpretation of that clause it is up to Mr. Lumsden and down here he says it is not. Do you see ?

By Mr. Macdonald :

Q. Yes ?—A. You must go and ask the senior engineer, the chief engineer, what he means by that. Down below he says he leaves it to his junior.

By Mr. Murphy :

Q. Is not that item 5 covered by the opinion of the Deputy Minister of Justice of the 6th January ?—A. The Deputy Minister has given an evasive answer which is adopted by Mr. Lumsden in his letter of January 9. Now, here is what the Deputy Minister says——

Q. I am asking you if the item No. 5 is not covered by the letter of the Deputy Minister of Justice ?—A. It is spoken of by the Deputy Minister of Justice, but I do not think the deputy has given an opinion. He says (reads) :

'The specification speaks of rock found in ledges or masses of more than *one cubic yard* which, in the judgment of the engineer, may be best removed by blasting. If "rock assembled" may be regarded as a mass of rock, and if it may be best removed by blasting, I do not see why under the specification it is material whether the individual pieces exceed or are less than one cubic foot in size, and if "rock assembled" is not regarded as a mass, the minimum limit of size which can be classified as solid rock exceeds one cubic yard.'

Then Mr. Lumsden gives it and adopts it.

Q. He adopts the opinion of the Deputy Minister of Justice ?—A. Oh, no, I don't think he does.

Q. But Mr. Lumsden deals with a letter of the Deputy Minister of Justice of the 6th January in a letter of the 9th January in which he adopts the latter's opinion?—A. Does he adopt it?

Q. Yes, the opening paragraph of his letter and sent it out to his engineers ?—A. (Reads) :

'I have to-day been handed by the secretary a copy of a letter from the Deputy Minister of Justice, dated the 6th instant, with respect to my interpretation of clauses 33, 34, 35 and 36 of our general specifications. After fully considering his remarks in regard to the words after "rock assembled" (the individual pieces of such assembled rock exceeding one cubic foot in size), I have concluded in deference to his remarks these bracketed words might be omitted.'

In deference to his remarks.

Q. Yes, so he adopts the remarks of the Deputy Minister of Justice ?—A. No, in deference to his remarks. Mr. Newcombe says 'If such and such is so.'

By Mr. Lennox:

Q. He does not give an opinion?—A. He does not give an opinion. Mr. Newcombe says (reads) :

'It seems to me, however, that these questions are largely engineering questions, the solution of which depends principally upon the judgment of the engineers, having regard to the terms used in the specifications.'

Mr. LENNOX.—I submit this is all irregular. We have these original documents before us and may have to consider them sooner or later, but it is not for us to ask

this witness for his construction of the documents; it is for us to construe the documents ourselves. I think it is very irregular to proceed in this way. The witness cannot help us in the matter; we must form our own opinion by reading the documents ourselves.

Mr. MACDONALD.—Still I think the witness is still adding some light to this inquiry.

Mr. MURPHY.—And his answers have been chiefly to members of the committee.

Mr. MACDONALD.—I must confess that hardly any member of the committee would regard himself as an expert in this matter of classification. I think it is purely a question of classification now, and there does not seem to be much in this matter except who is right in the matter of classifying.

The WITNESS.—You see Mr. Murphy examined me on one thing and I answered him on the other.

Mr. HODGINS.—The question is what justifies the classification of common excavation as solid rock.

Mr. MURPHY.—That remains to be seen.

Mr. HODGINS.—I want to make it clear that that point cannot be offset by the suggestion that 'masses' alters the whole complexion of the question. It does upon one point only.

Mr. MACDONALD.—If you have the opinion of distinguished counsel and the opinion of the chief engineer of the Transcontinental Railway, after mature deliberation, laying down and defining what these specifications mean, both in a legal and technical sense, I think it alters the case considerably. And the Major admits that his views have been considerably modified since he saw that. I think it is a question simply of engineering.

Mr. HODGINS.—If that were so, if one of the legal opinions touched the point I suggest, I would agree with you; but not one of them either mentioned it or raised it. They do touch the question of 'masses,' the meaning of 'masses' as between loose rock and solid rock, and whether the classification is one way or the other.

Mr. MURPHY.—They all deal with the item in dispute, the clause in the specifications relating to solid rock.

Mr. HODGINS.—I am only pointing this out so that there shall be no obscuring of the issue.

Mr. LENNOX.—As I understand the evidence given in relation to section 'F,' it is being discussed pro and con between the Deputy Minister and the Engineer.

By Mr. Murphy:

Q. You have mentioned here, Major, that the interpretation of the chief engineer, to which you have been referring, covers the material in Quebec?—A. Well, and I gave that——

Mr. LENNOX.—No.

Mr. MURPHY.—Did the witness not say that?

The WITNESS.—I did state that.

Mr. MURPHY.—He has made a statement, and I am asking him if it is a fact.

Q. In the last hour of your evidence you made that statement, did you not?—A. I know. I don't know whether I said it to-night or not, but I have spoken about it to some engineers.

Q. I understood you to say, Major, that during the course of your answers to some members of the committee that you had been told by some engineer that the interpretation of the chief engineer covered this material in Quebec?—A. Oh, yes.

Mr. LENNOX.—I object to that. It is no evidence, it is purely hearsay. I object to any such evidence.

Mr. MURPHY.—The witness has given it and not in answer to me.

Mr. LENNOX.—I have not heard it before, and I certainly object whether he has made the statement to-night or not.

Mr. HODGINS.—I do not suppose the committee want to hear what Major Hodgins has heard from some engineers. He has said that some engineers have told him that the chief engineer's opinion would cover a particular question.

Mr. MURPHY.—Does cover it.

Mr. HODGINS.—Very well, does cover it. Some engineer has told him. Do the committee want to spend time listening to that sort of thing?

Mr. LENNOX.—I certainly do not. I do not want hearsay evidence. I do not want to know what these engineers may have said to Major Hodgins, or to me or to anybody else. If you want to get that in the form of evidence, the proper way would be to bring those engineers here.

Mr. MURPHY.—But this statement was made by the witness.

The CHAIRMAN.—If the statement was made by the witness surely Mr. Murphy has a right to make him explain it.

Mr. MURPHY.—I think I have a right to ask him in regard to it.

The CHAIRMAN.—If the witness says some engineer told him we have a right to know his opinion on it.

Mr. LENNOX.—I submit that even supposing the witness was asked a question and made the statement referred to in reply to it, still we must conduct this case rightly and properly, and if the attention of the Chairman has been called to a statement that is not proper evidence it should not be followed up, but should be stricken out of the notes.

The CHAIRMAN.—Of course, we do not want hearsay evidence.

Mr. LENNOX.—It is absolutely hearsay evidence. If the statement was made inadvertently it should not be allowed to go.

Mr. MACDONALD.—What is your object, Mr. Murphy?

Mr. MURPHY.—The witness in his examination-in-chief, was allowed to put in all sorts of evidence, including alleged statements by Armstrong and Dutton up in district 'B,' and one very serious statement he made——

Mr. LENNOX.—The evidence in the examination-in-chief of the witness stands on a different basis. He was asked to give his reasons for taking a certain position and in doing so he, of course, referred to certain matters.

The CHAIRMAN.—Conversations that he had with other engineers?

Mr. LENNOX.—Part of the information he had got from other parties. That was the basis upon which he made certain charges. That is perfectly competent. But when you are trying to ascertain what is a proper construction of specifications by asking the witness to repeat what other engineers have told him, that is an entirely different matter, that is purely hearsay.

Mr. MURPHY.—I submit it would be equally competent for him to tell you now conversations which formed the basis of his modifying his views, or withdrawing or receding from one of these charges. For the very reason mentioned by my learned friend I wanted to ask him the question. The witness made the statement to-night and since then has repeated it.

Mr. LENNOX.—I press for your ruling, Mr. Chairman?

The CHAIRMAN.—I think I heard the witness make the statement, I cannot say at what stage of the proceedings that an engineer told him.

Mr. LENNOX—If he did, it does not make any difference.

The CHAIRMAN.—Mr. Murphy, you asked him the question and what did he say?

Mr. LENNOX.—Let us have your ruling upon the point.

Mr. MURPHY.—I asked the question if he had not stated to-night that an engineer had told him that the chief engineer's interpretation covered this material at Quebec?

Mr. LENNOX.—That is not what you asked him before?

Mr. MURPHY.—The witness said yes.

The CHAIRMAN.—If he said yes, then we may follow the matter up. What is the next question?

Mr. LENNOX.—The witness has not made any answer.

By the Chairman :

Q. What is your answer to that ?—A. Yes.

By Mr. Murphy :

Q. What were you told in regard to that, Major ?

Mr. LENNOX.—I object to that. I object to his stating anything that he was told by outside engineers or that he was told by any engineers. If you want that evidence bring those engineers here.

Mr. MURPHY.—That is not the rule that was laid down in regard to conversations with Dutton or Armstrong.

Mr. LENNOX.—We cannot help that.

Mr. MURPHY.—I objected to those conversations being admitted, but still they were allowed to go in as evidence.

Mr. LENNOX.—I ask the chairman to rule and then I am done with it. I submit that what an engineer told him ought not to be related here as evidence.

Mr. MURPHY.—I draw the chairman's attention to the serious nature of the conversation with Mr. Armstrong that he related.

Mr. LENNOX.—Yes, but that is another matter.

Mr. MURPHY.—The statement was that the excessive classification in Quebec would amount to $2,000,000. That is a serious statement, and the newspaper men here telegraphed it abroad as though it had been proved.

Mr. LENNOX.—I do not understand anybody to say that it is not a serious matter, but it stands on a different basis.

Mr. MURPHY.—Yes, it is in, and my learned friend wants to keep this other thing from going in.

The CHAIRMAN.—We want the fullest investigation possible, and if we allowed testimony of that nature in the examination-in-chief I think we ought to allow it here also.

Mr. HODGINS.—I hope you will insist upon getting the name of this eminent engineer ?

Mr. MURPHY.—No one has said 'eminent engineer.'

The CHAIRMAN.—Ask him the name ?

By Mr. Murphy :

Q. When were you told——

Mr. LENNOX.—You had better ask him what did the engineer say, if it is ruled that the question be allowed.

The WITNESS.—It is practically the question that you put to me that I answered yes to.

By Mr. Murphy :

Q. What did this engineer say ?—A. That clause there, No, 5, practically covered the classification that was disputed by the Grand Trunk Pacific in Quebec.

Q. That item 5 in Mr. Lumsden's diagram, explaining his interpretation, practically covered the classification that was disputed in Quebec? Is that correct?—A. Yes.

Q. Who was this engineer ?—A. Mr. Armstrong.

Q. Is he the gentleman that you referred to as having had a conversation with in Quebec?—A. Yes. At the time I had the conversation with him this thing was not in existence.

Mr. HODGINS.—You don't quarrel now with the word 'eminent' engineer ?

Mr. MURPHY.—I will quarrel with anything that my learned friend attempts to put in the mouth of the witness that he has not stated.

The WITNESS.—If it is in October, 1907 that was not in existence.

Q. This interpretation?—A. This interpretation of the chief engineer because he says——

Q. He only gave it in January?—A. The chief engineer on October 30 says (reads):

'On arrival near the crossing of the Quebec and Lake St. John Railway, I, accompanied by the engineers and contractors, walked over a portion of the heaviest work on the line from about mile 117 to 122½. From the division or resident engineer I learned the classification allowed by them in the cuts as we passed through them, and it appeared to me, according to my interpretation of our specifications, that a larger amount of solid rock was returned in them than appearances indicated, and the engineers, in my opinion, returned loose rock or cemented material where a considerable amount of explosives were used as solid rock.'

Q. What are you reading from?—A. Mr. Lumsden's letter.

Q. Of what date?—A. October 30.

Q. To whom is that letter addressed?—A. To the commissioners.

Then he goes on:

'Such being my views, and as stated to you in my letter of the 18th instant, I must decline to certify to any future estimates, except upon classification in accordance with my interpretation of the specifications above mentioned, unless both parties to the contract agree to amend the contract formally, with due concurrence of the government, or until the estimates are corrected to conform with my interpretation. In any event, I ask that this correspondence be at once submitted to the government.

'Your obedient servant,

'HUGH D. LUMSDEN,

'*Chief Engineer.*'

I read that because Mr. Armstrong and I were discussing the question in Quebec in June, and it was, I contend, the opinion of the chief engineer that I had in mind at the time.

Q. With the knowledge that you now have, Major, of this interpretation, and the documents to which you have been referring and read, what have you now to say about the classification in Quebec?—A. Well, do you want me to speak as a subordinate of Mr. Lumsden, because I am not. I am simply interpreting this interpretation as it may be interpreted by one of Mr. Lumsden's subordinates.

Q. Give us your opinion?—A. I am not here holding a brief for the Grand Trunk Pacific, why do you want my opinion?

Q. I am asking whether in view of your interpretation to which you have been referring you would now make any objection to the classification in Quebec?—A. That is a hard question to answer; there is no use me making complaint, because the Grand Trunk Pacific have made a complaint about classification; they have made much more serious objection than I have.

Q. I have put the question to you in that way, now what is your answer?

Mr. MACDONALD.—It is a purely engineering question after all, is it not?

A. Absolutely. If you ask my opinion, I think Mr. Lumsden is wrong in his interpretation of the clause.

By Mr. Murphy:

Q. You think he is wrong?—A. Exactly, I do, instead of interpreting the clause in that way I still stick to my view that the price of loose rock ought to be raised or that there should be an intermediate price.

By the Chairman:

Q. The whole thing seems to turn on the question of classification?—A. The whole matter, as I pointed out and as I have been discussing it.

Q. That is at the LaTuque cutting?—A. At LaTuque, it will be a hardship to ask the contractor to do that at 40 or 60 cents.

By Mr. Hodgins:

Q. What do they call it in Quebec?—A. What do they get for solid rock?

Mr. DOUCET.—$1.50.

The WITNESS.—Well, it is too much to ask the contractor to take it out at the price which is given, that is where the hardship comes in; the engineer unless he gets authority from his superiors to increase the classification is doing something wrong. He must get the authority to do so. If the commissioners had been a board of directors instead of a board of commissioners the directors would have taken that up and settled it.

By Mr. Macdonald:

Q. That is they would have the power to do so?—A. They would deal with it. When I gave the order for the force account Mr. Lumsden discussed it with me and said, 'Remember I can't give you any authority for this,' and at the same time he reminded me of a somewhat similar case that occurred in the State of Maine when we were down there; I had not remembered very much about it because I was a subordinate engineer and he was the chief engineer. But there were some cases where hard material occurred when we were working in Main which were covered by the specification, and there was a low price for it, an unworkable price, and Mr. Lumsden went to Montreal and the directors arranged for the price to be altered; the contract was let, but it was all arranged in ten minutes.

By Mr. Murphy:

Q. But was the wording of the specification the same as in this?—A. No.

By Mr. Macdonald:

Q. He is pointing out that the directors of the Canadian Pacific Railway had the power to deal with such a matter, that the directors directed and were able to say, 'We will deal with it by force account,' or whatever way they decided, whereas the commissioners under the statute appointing them are bound to let the tender to the lowest tenderer, they cannot do anything else, and they must see that the tender is carried out, they have no discretion about it?—A. They have no discretion.

By Mr. Lennox:

Q. You say that you think the interpretation finally put upon the contract and upon the specifications by Mr. Lumsden is wrong?

By Mr. Macdonald:

Q. That is in some respects?—A. Yes, I would think he was wrong.

By Mr. Lennox:

Q. You think he is wrong?—A. In my opinion.

By Mr. Murphy:

Q. Altogether wrong?—A. No. This opinion is backed up by a lot of eminent counsel who have given their opinion in behalf of the contractor. I would like to see the opinions of some equally eminent men on the other side.

By the Chairman:

Q. So that this long and expensive investigation will turn on the question of the interpretation by engineers on classification?—A. Yes.

By Mr. Lennox:

Q. You, so far as you can express an opinion, do not agree with Mr. Lumsden's opinion expressed in that letter?—A. No.

Q. In that clause 5?—A. No.

Q. And you say that?

By Mr. Macdonald:

Q. That is clause 5?—A. Yes.

By Mr. Lennox:

Q. And you say that the difficulties in Quebec are not in the question of the construction of the specification, but that the contractors took the work too low, that 50 cents is not enough for the work that had been done there?—A. I am not discussing the solid rock price, but the common excavation price.

Q. The fact that the contractor took his work too low does not justify the engineer in classifying too high?—A. No, he has to go to the chief engineer and the chief engineer has to look after it.

Q. Must he not classify in the end according to the specification?—A. Yes, but he has the right to give his interpretation of the specifications.

Q. But he must endeavour to interpret the specifications correctly?—A. Yes.

Q. And he has not the right because it is hard work to enlarge the specifications? —A. I am just looking for 'work remaining to be performed; in which case the contractor shall only be entitled to receive 90 per cent of the value of the work done as stated in such certificate, and he shall not be paid the difference between 90 per cent of the value of the work done, &c.'

Q. Is there any difficulty in answering that question?—A. Yes, I think there is some clause in the specification in which the engineer is given power to increase the prices.

Q. That is a different thing; he has not the power to change the classification? —A. Oh, yes.

Q. He has not the right to change the interpretation of the classification; he has the right to change the price?—A. The chief engineer on any road has the absolute power to do as he pleases.

Q. I am talking of what we have to do with here. Do you know of any clause that gives the chief engineer power to change the classification by reason of its being a hard contract?—A. You mean on this contract?

Q. In the case of the Transcontinental Railway?—A. I was just going to look up the clause; I am not quite certain about it.

Q. I do not understand that he has——

By the Chairman:

Q. In other words, has not the chief engineer power to do in such matters just what he pleases?—A. He ought to be in that position all right. Of course, very often the chief engineer would not want to do anything of that kind without consulting his directors.

Q. Is he not the master to do as he chooses in that?—A. I do not know whether it fully explains that in the specifications. Clause 36, 'Where, in the opinion of the chief engineer, the work is not, having regard to the nature and character of the work remaining to be performed, of sufficient value to justify computation at the prices agreed upon and determined under the provisions of this agreement, it shall be competent for the chief engineer in certifying the value of the work done for the purpose of such payment, to disregard the prices so agreed upon or determined, and to compute and certify its relative and proportionate value, having regard to the nature and character of the work remaining to be performed.

By Mr. Lennox:

Q. Just stopping there, that does not justify him in changing the classification, in your opinion, does it?—A. I think so, I think the chief engineer ought to have that power on any railway.

Q. That is not the point; the point is, do you find anything there that gives him power; it is not what he ought to have?

By the Chairman:

Q. How would he proceed if he wanted to change the contract to force account, for instance?—A. He would get the consent of his directors.

By Mr. Macdonald:

Q. The chief engineer did not change the specifications, he put a new interpretation upon the language of the specification.

By Mr. Lennox:

Q. He must not change or interpret them differently because it was a hardship on the contractor?—A. It is a very difficult thing for any one to write a perfect specification that will apply to every piece of work.

The committee adjourned.

TUESDAY, June 16, 1908.

The committee met at 3 o'clock p.m.

Mr. MURPHY.—Mr. Chairman, one of the last matters referred to at the last sitting of the committee was the production of the correspondence between Major Hodgins and Mr. Butler on the condition mentioned in Mr. Butler's letter. I now wish to produce the correspondence, and submit it to the witness and ask him some questions with regard to it.

Mr. HODGINS.—Has anything been heard from Mr. Conmee ?

The CHAIRMAN.—I have seen Mr. Conmee but he would not give me his consent right off so I made up my mind that I would have to see Sir Wilfrid Laurier about it and try to bring them together. I think I can do it but Mr. Conmee would not offhand give me his consent.

Mr. HODGINS.—There is no objection to that course being pursued, but I would ask, should it not be successful, for an order of the committee.

The CHAIRMAN.—Yes, but I think I can manage without that.

The cross-examination of Major Hodgins resumed.

By Mr. Murphy :

Q. I show you a letter dated 18th August, 1907, from you to Mr. M. J. Butler. I want you to look at it and say if that is your letter ? (Handing document to witness)—A. Yes.

Mr. MURPHY.—I propose to read this letter, Mr. Chairman, but before doing so I wish to say that my learned friend and I have agreed, with the consent of the committee, that one of the reasons enumerated in the letter by Major Hodgins, the writer, for having taken a certain action would not be read nor would it appear on the record.

Mr. LENNOX.—I suppose the members of the committee can look at it ?

Mr. MURPHY. I was about to hand it around (letter passed around for examination by the committee).

By Mr. Murphy :

Q. The letter is as follows :

EXHIBIT No. 36.

The Commissioners of the Transcontinental Railway.

OFFICE OF THE DISTRICT ENGINEER,

Private and confidential.

18th August, 1907.

MY DEAR BUTLER,—

If you have not yet had an interview with the chief you possibly will soon.

Grant reported that we were skinning the contractors with mean classification, &c., and various other awful things, so I demanded that a full inquiry be made by the chief—yourself or Mr. Schreiber.

The chief has been up and has approved of some of the so-called mean classification as fair and liberal interpretation of the specifications.

Before he arrived I had been on the work for a few days and realized that if something extraordinary were not done there would be trouble on the line. One contractor with 60 miles told me that if he did not get what Grant promised him he would pull out. Grant's promises he admitted were extravagant and beyond his expectations.

I, therefore, instructed A. G. Macfarlane to go over his division and classify by force account in mixed cuts, but not in solid rock, and that I would inform C. E. when he arrived what I had done and he could inform the board.

The chief will give you further details. I did this for these reasons.

There would be a general row over classification and contractors would pull out.

McArthur would be bust.

There would be a financial panic in Winnipeg.

The contract would be very much delayed in completion, and it would cost very much more money to finish it. By doing the work by force account it will be done at cost and contractors who are now going behind at present prices will be encouraged to make better progress.

I am taking this responsibility on my own shoulders on no other authority than verbal instructions from some of the commissioners to go up to Kenora and pay no attention to the chief but run the show as I think best, and that they will see me through.

I am now acting on this, with the approval of the chief in abeyance until he gets to Ottawa and discusses the matter with the board.

I have consulted with Howell (C. J. Manitoba) to find out if I was doing anything very wrong. Of course, he was very sorry to hear of the true state of affairs.

McArthur has made excellent progress during the summer months and especially July. Men are coming in in greater numbers and the work is now fairly well covered. Have you ever looked at the progress profiles ? They are worth looking up, it will give you an idea of the amount of work yet to be done. You will also see that some clearing is untouched. The greatest trouble Grant's wild promises have made on McArthur's contract is that he told many that they did this . . and that . . in Quebec. Of course, I am not in a position to say yes or no to those reports, but the contractors feel that they should be treated up here exactly in the same manner as in Quebec.

I am willing to go to the limit of force account, if it is possible, but beyond that—actual cost plus 10 per cent—I won't go. I am not going to cut too loose and too narrow on the force account. I will do what is fair, reasonable and liberal in my judgment. I won't split hairs.

The August estimate will, as far as possible, be based on force account classification, and as it will take two or three months to reclassify all the cuts (except solid

rock), no very great harm can be done should the board decide to instruct me to do otherwise. I am acting on my own responsibility (guided by hints from the commissioners), and there are two weeks to elapse before I sign the estimate. This gives the chief and board time to discuss the question—in fact, 'it's up to them.'

Yours sincerely,

A. E. HODGINS.

And then there is a note endorsed on the bottom of the last page (reads):—

'Please excuse this blur. It is Sunday, and I ran it through the press myself, as no one is here.—H.'

Now, you received a reply to that letter, Major, did you not?—A. Yes.

Q. And you have told us that you have not that reply with you?—A. No, I have not.

Q. Then I shall ask that the copy produced by Mr. Butler be allowed to go in. Just look at that copy, Major (producing copy of letter and handing it to witness).

Mr. Hodgins.—Before my honourable friend reads the letter, I may say that I have no objection to these productions as affecting Major Hodgins, but as far as the contents of the letter are concerned, we do not admit that they state anything more than Mr. Butler's view guided by Mr. Grant's report. I mention that because Mr. Butler discusses the subject as if Mr. Grant's report were unanswerable, whereas he had not seen and did not know the answer to it.

By Mr. Murphy:

Q. Mr. Butler's reply is as follows (reads):—

EXHIBIT No. 37.

Private and Confidential.

August 24, 1907.

Dear Hodgins,—I have your private and confidential letter of the 18th instant, and I must confess that I am considerably surprised to learn that you have abandoned the safeguard you discussed with me when you were here. In the light, particularly of your own statement that the total amount involved by any change in classification was relatively a small one, it would seem that there was absolutely no justification whatever for you to take the attitude that you apparently have done. As you very well know, the commissioners are bound to repudiate any such basis of classification, and, of course, the chief will not and dare not approve of it. It seems to me—you have the specification and contract before you—that they are sufficiently clear as to the manner in which work shall be done. Any other method is not only illegal, but is beyond the powers of the engineering department to deal with.

I saw the chief; but, of course, he was naturally very reticent about the matter, for the reason that he has not yet received any decision from the commissioners. I may say also that I had an opportunity of reading Grant's report. His report discloses a state of affairs that is not to the credit of yourself; that is to say, the want of inspection and the familiarizing of yourself, as district engineer, with the work that is going on in your district. If it is true that you have never been over the line, how in the world do you justify, under the rules contained in the 'instructions,' such a position? If neither you nor your assistant district engineer have ever been over the line, in what way then are the divisional engineers and the resident engineers to be instructed—surely not by correspondence? You are too experienced a man to think for a moment that railways can be built by letter-writing.

The object, of course, that was in view, when the 'Instruction Book' was prepared, was that the district engineer would go over his district with sufficient fre-

quency to personally know that the questions were properly handled, that the plans were kept properly up-to-date and that the work was handled in a business-like manner. All these are matters to be settled on the ground, and not in an office.

Apparently one of the mistakes that has been made, is in the assistant district engineer that you have appointed. From all I can learn he is a man without previous railroad experience and never has been into the field at all. This, of course, is all wrong.

The situation is a dangerous one—dangerous to yourself, and dangerous to the commissioners, as well as the government. It is a great public work and requires to be handled with force and vigour; and your duty at once, is to get down on the ground, go over the line from end to end, familiarize yourself with every single piece of work that is under your care, and to know from personal observation, not only how the work is being done, but how it should be done. Then and then only, can you secure proper and vigorous prosecution of the work.

You, of course, told me yourself that you had not been over the ground, and felt guilty accordingly. I am writing you pretty fully and frankly my own personal views in the matter, in order that you may have an understanding of the attitude of mind that I have of the way such work should be conducted. Is it not a fact that there is a great bugaboo being made about this classification matter? You can readily see that if you carried out the line you have indicated to me, you have bedevilled your own reports, in as much as they are not based upon the terms and conditions of the specification and contract. I daresay, however, you have your measurements in such way that you can know the actual quantities of the several classes of material, except this one based upon the specification and contract.

I presume you have a copy of Grant's report: If not, it is due to you that you should have it. What he stated about the overbreak, on the face of it, seems a reasonable thing, and unless you have been on the ground you are not in a position to contradict it.

With regard to another matter: that your specification deals with—the question of surface drainage. It is so serious, it will, of course, demand your immediate attention. He draws attention to a tunnel, upon which apparently nothing has been done. It is so serious in its nature, that you will, of course, give every consideration to the several points directed by him in his report. I have talked to Grant this morning, and I must confess that he gives lie direct to most of the statements that have been attributed to him. He says that he was particularly careful to say that he, of course, gave no orders to you, or to any of your men: that he had no power to do so: but, that he did discuss with you in detail certain phases of classification; that he had no discussions with sub-contractors along the lines indicated, but as the facts are reported to the chief engineer by him, he was bound to do so.

Under the circumstances, it seems to me that it is very clear that the first consideration at your hands is for you to get out in the field, familiarize yourself with the actual condition of the work, and to see how well or otherwise your subordinate engineers are conducting their work. The conduct of the office correspondence is of minor consideration, and if you have such an elaborate system of letter writing and reporting that it interferes with your work in the field, you should know that the system is rotten and cut it out on your own responsibility. Let them wait for answers to some of their letters, and explain that you are out in the field doing your work.

I am writing you frankly and fully, as I have stated above, and in a way I trust will be of some service to you.

Very sincerely,

M. J. B.

Now having heard these Exhibits 36 and 37 read, major, do you now recall any more clearly the conversation you had with Mr. Butler in Ottawa some weeks previous to writing your letter of the 18th August?—A. No. I remember discussing overbreak and asking for a transfer. But I might say, as regards Mr. Butler's letter,

what did he know about the condition of affairs up on the district? He accuses me of letter-writing. He believes Mr. Grant's report is absolutely true and he judges me from his own desk not from the work. I think that is a fair statement of it.

Q. At the beginning of his letter to you Mr. Butler states that he is considerably surprised to learn that you have abandoned the safe ground you discussed with him when you were here?—A. Yes.

Q. Now what has that reference to?—A. I presume that was sticking to the specifications.

Q. Yes?—A. And not copying the classification I had seen in Quebec.

Q. Does it not refer to force account?—A. I had no intention of introducing force account until I went up on the work and saw the condition of affairs there.

Q. Well at the interview that you had with Mr. Butler is it not a fact, Major, that you discussed the question of employing force account on the work?—A. I may have told him it was a suggestion by Mr. Grant.

Q. And did he not then point out to you—— ?—A. When Mr. Grant suggested it to me I did not agree with him at all.

By Mr. Carvell :

Q. You say Mr. Grant suggested applying force account when he was up there?—A. He mentioned, in discussing classification, that it was the best way to classify, for engineers to classify intelligently. Well a senior engineer might classify intelligently but it is a very dangerous thing to let a junior engineer employ force account.

Q. Did he advocate its use in District 'F'?—A. Yes, as the fairest way to the contractor.

Mr. MURPHY.—Of whom is the witness speaking?

Mr. CARVELL.—Of Mr. Grant.

The WITNESS.—It is a point engineers differ on.

By Mr. Murphy :

Q. Then there was some discussion between you and Mr. Butler about the force account?—A. Possibly. There certainly was no intention on my part to introduce it when I was talking with Mr. Butler.

Q. Is that not what Mr. Butler refers to in his letter when he says he was considerably surprised to learn that you had abandoned the safe ground you discussed with him when you were here?—A. It might be.

Q. Is it not that interview and the discussion thereat as to the employment of force account that sentence in Mr. Butler's letter refers to?—A. Possibly.

Q. Well what was it you proposed when you were speaking to Mr. Butler in July last about force account?—A. I never proposed anything.

Q. What was it you said to him?—A. I don't remember discussing it as he refers to it. It would be possibly in that way——

Mr. HODGINS.—He does not refer to it in this letter.

The WITNESS.—My objection to allowing engineers to use force account.

By Mr. Murphy :

Q. Your letter, of course, deals with it?—A. That came afterwards.

Mr. HODGINS.—You are certainly not representing the actual state of affairs. I do not suppose you are doing it intentionally.

Mr. MURPHY.—I am asking what the reference in Mr. Butler's letter is to?

The WITNESS.—I certainly did not approve of force account because I was of opinion that it was wrong to do it. I only introduced it as a means to an end when I got on the work afterwards, after I had seen Butler.

By Mr. Murphy :

Q. My instructions are, Major, so that there will be no misunderstanding about

this, that you discussed force account, that you were warned not to do it and you agreed not to do it ?—A. Oh dear me, I had never proposed that.

Q. How do you recall that ?—A. No, I do not. It was against my idea altogether to introduce force account. I told Mr. Grant so and I told others so, but I changed my opinion when I got up on the work and found the condition of affairs up there on Dutton's work. I might say when I first went up there, I think it was Mr. Macfarlane suggested it as a means to the end. Dutton suggested it and I would not allow it. The next day, after thinking it over that night, after I got up in the morning I discussed it with Mr. Macfarlane——

Q. That is the same evidence you have given us several times before ?—A. I certainly never discussed it with Mr. Butler with the intention that you stated just now of introducing it myself because I was against the idea.

Q. You said at the end of your letter, Exhibit 36, that you had copied your letter yourself ?—A. Yes.

Q. Have you the book in which that letter is copied ?—A. No.

Q. Where is it ?—A. If it was in a book it would be out in Victoria. I copied some of these letters on sheets.

Q. This letter to Mr. Butler was copied but your letter of September 14th on which 4 pages all your charges are founded, was not copied into your book ?—A. No.

Q. Now, referring again to the evidence that you were giving last night before adjourning ?

Mr. LENNOX.—Will you allow me to ask a question for my own information. You have introduced the Butler letters to-day and you have dealt with two. Are there any more ?

Mr. MURPHY.—The letters produced are the only ones that are spoken of. I do not know of any others, sir.

By Mr. Murphy :

Q. You have referred to the opinions given by certain counsel and the interpretation of the specifications by the chief engineer, and you pointed out to the committee that this interpretation was a different one, in your opinion, from the one that prevailed when you were on the work ?—A. Yes.

Q. And you also pointed out to the committee that all the engineers were now bound by this interpretation ?—A. Yes.

Mr. HODGINS.—Well, I don't know that he said that.

The WITNESS.—If they disagree with the interpretation of their senior the only thing for them to do is to resign.

Q. Yes. Now in your reading through the file of the pages containing that interpretation and those legal opinions, you observed, did you not, that all the district engineers concurred in the interpretation ?

Mr. HODGINS.—Has that file been put in, Mr. Murphy?

Mr. LENNOX.—I object.

Mr. HODGINS.—Has it been put in, because if not I want it put in if there is any question to be put upon it?

Mr. PARENT.—It went down to the House of Commons.

Mr. HODGINS.—I beg your pardon; it did not go down to the House.

Mr. PARENT.—Yes, it is before the House.

Mr. HODGINS.—Those opinions were never before the House.

Mr. LENNOX.—They were brought down here before the committee, I understand.

Mr. HODGINS.—Nobody asked for them. They were produced by the commissioners for their own purposes, and I want them to go in now.

Mr. CARVELL.—I supposed they were a part of the record already as an exhibit.

Mr. HODGINS.—They have never been put in as exhibits yet.

Mr. PARENT.—I know I sent them. I sent them with my statement; I am sure about that.

Mr. HODGINS.—No, sir.

Mr. PARENT.—I beg your pardon; I know what I did better than you do.

Mr. CARVELL.—Where are they now?

Mr. MURPHY.—They are here. The witness referred to them repeatedly last night.

Mr. LENNOX.—You referred to them.

Mr. MURPHY.—I beg your pardon?

Mr. LENNOX.—Let us make them Exhibit No. 38.

Mr. CARVELL.—They were sent by the commissioners, were they?

Mr. PARENT.—No, they were sent by me to the House accompanying my statement. After papers leave my office I am not responsible for them.

Mr. HODGINS.—Copies were not made?

Mr. PARENT.—I have an exact copy here, too. I can give you the exact copy right away if you wish.

Mr. CARVELL.—Do you mean in your annual statement to the House?

Mr. PARENT.—I mean that the papers accompanied my answer to the 'Colonist,' the 'Free Press' and the 'Citizen.'

Mr. LENNOX.—Then Sir Wilfrid did not lay them on the table.

The CLERK.—They are here before the committee.

Mr. LENNOX.—I object to the question. I object for this reason: The papers themselves are the only guide we can take as to what they mean, we cannot take the construction any witness places upon them. It is not proper to ask a witness to substitute his opinion as to what those documents say for the written evidence by which we are bound—the papers themselves.

Mr. MURPHY.—I will ask the witness outside of these papers.

By Mr. Murphy:

Q. Do you, Major, know whether or not the engineers concurred in that interpretation of the specifications given by Mr. Lumsden in January last?

By Mr. Lennox:

Q. I want to ask another question there. Do you know of any other way except from the papers?—A. Yes, I heard that Mr. Dunn, district engineer of District 'A,' did not agree entirely, and I see there is a letter here from him, dated the 2nd of November.

Q. We cannot go beyond what is in there. Have you anything outside of that?—A. I just heard it.

Q. If it is hearsay, we cannot take it?—A. Proved by his letter here.

Mr. LENNOX.—Then I submit we cannot take that; that cannot be given, because it is hearsay.

By Mr. Lennox:

Q. Did you hear it from Mr. Dunn himself?—A. No.

Mr. LENNOX.—Then the question should not be allowed.

The CHAIRMAN.—I do not allow the question.

By Mr. Murphy:

Q. Do you know, Major, that previous to that interpretation there was a difference of opinion between the engineers and the chief engineer as to the interpretation?

Mr. HODGINS.—Except as to that file.

Mr. MURPHY.—Well, except as to that.

A. No, I did not. When I was in Quebec I was under the impression that they all agreed.

By Mr. Murphy:

Q. In tendering, major, the contractors are obliged to interpret the specification, are they not, as practical men, just as the engineers are?—A. Yes.

Q. And on their interpretation of the specifications they fix the price that they send in their tender?—A. Yes.

Q. Then you are aware that the price for solid rock that the contractor in your district had was $1.70 per yard, are you not?—A. Yes.

Q. And last night you mentioned that the price in Quebec for solid rock was $1.50?—A. $1.50—at least I got that from Mr. Doucet.

Q. So that there is between these two sets of practical men the same difference of opinion as regards some of the work as there is between the engineers?—A. I do not understand.

Mr. HODGINS.—Really if these questions are all going to be asked the witness, you might just as well call the first man in the court room and ask him about it. It is obvious there are two different prices put in by the contractor in the two districts and it is only wasting time asking such questions.

Mr. LENNOX.—Each contractor decides what the work is worth and puts in his tender.

Mr. MURPHY.—He has to interpret the specifications.

Mr. LENNOX.—Not altogether on the interpretation of the specifications but he has to decide what he will do the work for.

Mr. MACDONALD.—It is obvious he must have in view what work he has to do in order to determine what his price will be for doing it.

A. You cannot always judge by noting the prices. The contractor in bidding on a big contract like that varies his prices, the next highest above the contractor might have a higher price on rock but a lower price for something else. You cannot judge by that.

Mr. CARVELL.—You have to take the tender as a whole and figure out the quantities at the different prices in order to know which is the cheaper of the two.

By Mr. Murphy:

Q. As a practical man you know that the contractor or the contractors in District F and District B, as practical men also, were obliged to interpret the specifications for this work before they could put in their prices.

Mr. HODGINS.—I do not want to be always objecting but I think it is time the committee put some limit upon this kind of questioning.

The CHAIRMAN.—What do you object to in that question?

Mr. HODGINS.—I object to it as being entirely irrelevant.

The CHAIRMAN.—Well, supposing Mr. Murphy changes his question and asks him what he knows about it, he can put it interrogatively?

Mr. CARVELL.—I do not think it is irrelevant, but I quite agree it is not of very much value, because we can draw our own conclusions. Still I do not see any reason why Mr. Murphy should be barred from asking the question but I think we could get along more satisfactorily if some of these questions were omitted.

By Mr. Murphy:

Q. Speaking about these specifications last night you stated there was more variance in these than in any other specifications you had to deal with?—A. Yes.

Q. More variance in what way?—A. Well, in that clause for loose rock, if you look at it, that is an ambiguous clause.

Q. Which clause?—A. The specification for loose rock. It leaves it to the engineer to decide whether the material is to be classed as common excavation or loose rock by a plough test.

Mr. CARVELL.—In order to make this intelligible will it not be well to read the clause to which you are referring, major, as it is now approved in the specification,

and then point out wherein there is the variation referred to?—A. Do you want me to read the loose rock specification?

Mr. CARVELL.—I was asking, in order that we might all understand it, that the witness might read the specification as it applies to loose rock, and then point out wherein there is a variation between that and what it ought to be according to his view.

Mr. PARENT.—He has done that three times already.

Mr. CARVELL.—Then I withdraw my suggestion, I was not aware of that.

A. I find a very good description to back up what I said last night, by another engineer, in this file here, perhaps you would like to have that?

By Mr. Hodgins:

Q. What is his name?—A. Mr. Dunn. I see that he has very much the same idea that I have.

Mr. LENNOX.—Somewhere that provides as a basis of that classification the plough test, and it is said you cannot tell whether it is properly handled or not, the driver may intentionally break the harness, but that is not correct because the horses are not properly handled if he does that, and the specification says behind six horses 'properly handled?'—A. I know, but then the trouble on the work commences for the engineer. He has to prove that the team has not been properly handled.

By Mr. Murphy:

Q. In your charges, paragraph 2 reads as follows:—

'The root of all the trouble between the commissioners and Major Hodgins was over-classification; and the commissioners wanted him to change his ideas as to classification, based on a good many years' experience on construction, to the classification that is allowed to the contractors in Quebec, under the head of "common excavation," "loose rock" and "solid rock." This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on the 24th April, 1908, and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24th, 1907.'

A. What is that?

Q. Paragraph 2 of your charges. Now, Major, I want you to explain to the committee what you mean by that second sentence, 'This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on the 24th April, 1908, and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24th, 1907.'

Mr. HODGINS.—I will take the responsibility of answering that.

Mr. MURPHY.—I object to counsel answering it. I have asked the witness, and I want the witness to answer.

The CHAIRMAN.—I think it is a fair question. There is a charge here, and I think you have the right to ask an explanation of the charge.

A. Well, I will have to go over this file to take out the letters.

By Mr. Murphy:

Q. 'This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on the 24th April, 1908, and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24th, 1907.' Now, I ask you, Major, the question, what do you mean by that sentence?

Mr. HODGINS.—I submit that is perfectly intelligible; Mr. Parent approves of it.

The CHAIRMAN.—Let the witness answer.

A. There is a letter somewhere, whether it is on this file or on the file laid on the table of the House, I cannot say.

Mr. LENNOX.—Look at page 32.

A. Oh, there it is.

Mr. MURPHY.—This intervention by counsel to substitute some other point for the witness is becoming intolerable. I submit it is not the witness giving evidence at all.

Mr. HODGINS.—It is necessary sometimes.

Mr. MURPHY.—It is not necessary, as the Chairman has pointed out.

The CHAIRMAN.—Go on, Mr. Murphy.

By Mr. Murphy:

Q. I have asked a question: I am waiting for the answer, Major?—A. I presume there is a letter somewhere in the memorandum laid on the table of the House; there is a letter from the chief engineer, dated September 24th, 1907.

Q. What knowledge, if any, had you of what you allege in that sentence, when you wrote your letter to the 'Colonist'?—A. I did not know about it then.

Q. You did not know about it then? What do you mean by that sentence as it stands in your charges?—A. Unless that came out in the file of documents that was laid on the table of the House, I will have to look these over; I do not know whether I have them here or not.

Q. Without referring to any other documents, can you state to the committee now what you meant by that sentence in your charges?—A. What I meant?

Q. Yes?—A. Yes, that the commissioners approved of this classification.

Q. Now, which classification are you referring to that they approved of?—A. The classification in Quebec.

Q. In Quebec; is that your answer, Major?—A. Yes.

Q. In what part of Quebec, or in Quebec?—A. All the estimates.

Q. All the estimates?—A. All the estimates.

Q. Had you seen the estimates?—A. No.

Q. I think you told us last night you didn't know anything about them?—A. No.

Q. How could that refer to these estimates, then?—A. They must have passed estimates in Quebec from month to month.

Q. Now, what kind of classification was that to which you referred, Major?—A. Well, that is the classification that is current there now, I presume.

Q. Was it solid rock, loose rock and common excavation?—A. All classes of classification.

Q. All classes. Do you know anything about the classification that is current there now?—A. No.

Q. Is your reference to the approval by the commissioners of the classification sustained by these legal opinions?—A. What is that again?

Q. I say is your reference to the approval by the commissioners there the approval of the opinion, or the interpretation rather, of the engineer sustained by these legal opinions?—A. Yes, I should think so; the legal opinions sustained it.

Mr. CARVELL.—Will you pardon me a moment? I think I can show where the Major got the evidence on which to formulate that paragraph in the charges. You will probably find it in Mr. Lumsden's letter of 23rd April, addressed to the commissioners and submitted by them to the House.

Mr. LENNOX.—I think it is in the letter of 23rd April, 1908, from Mr. Parent to Sir Wilfrid Laurier.

Mr. CARVELL.—It is the letter from Mr. Lumsden to the commissioners and it accompanies that. Here it is on page 32—

'As you are aware, I, on the 14th and the 30th of January, issued special circulars to the district engineers giving my interpretation of clauses 34, 35 and 36 of our general specifications, accompanied by a diagram explanatory of same, and I have letters from the district engineers in districts 'A,' 'B' and 'F,' where actual grading was being proceeded with, stating that my interpretation had been and is being adhered to.'

I think it is perfectly fair for Mr. Murphy to ask this witness wherein the interpretation of January, 1908, goes beyond the interpretation laid down by the chief engineer in September, 1907.

Mr. LENNOX.—He says, 'to the fullest extent is adopted and approved.' He does not say it goes beyond.

Mr. MURPHY.—'And exceeds that recommended by the chief engineer.'

Mr. CARVELL.—Now, ask him wherein that exceeds the recommendation of the chief engineer.

By Mr. Murphy:

Q. Now, referring to that sentence in paragraph 2 of the charges on page 39 of part 1, I would ask you to point out to the committee wherein the approval of the commissioners of this classification exceeds the classification recommended by the chief engineer in his letter to the commissioners of September 24, 1907?—A. Can I have the letters?

The CHAIRMAN.—The letter is printed in the order of reference at page 32. I am asking you to tell wherein the classification that you say was approved by the commissioners, exceeds the classification recommended by the chief engineer in this letter of September 24, 1907, which appears at page 32 of the printed record?—A. I don't see any reference in that letter.

Q. What is your answer? Can you or can you not point out to the committee wherein the classification that you say was approved by the commissioners exceeds the classification mentioned in that letter of the chief engineer of September 24?—A. It is in some letter I have seen.

Q. But you allege in your charges that it is in this letter. Now, I am asking you to point out wherein the classification exceeds what is recommended there?—A. I do not see it in that letter, it must be the wrong date.

Q. What is your answer, major?—A. It must be the wrong date.

Q. Well, is there anything else wrong about that statement in your charge?—A. Well, there is another letter from the chief engineer in which he approves of that classification, as far as I remember.

Q. What is the date of that?—A. It is in this file somewhere, that is giving an interpretation of the specifications that would cover that.

By the Chairman:

Q. Then, if I understand you well, you cannot see in that letter——?—A. I cannot recall the letter.

Q. In that letter, dated September 24, 1907, any justification for that charge which you made here saying (reads):—

'This classification to its fullest extent is adopted and approved by the commissioners in their memorandum laid on the table of the House on the 24th April, 1908, and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24, 1907.'

You cannot see anything in that letter to justify that charge?—A. That letter refers to—I think there is another letter somewhere.

Q. Well find that letter, please?

By Mr. Lennox:

Q. Before you leave that point. Have you read the paragraph at the top of page 33 of the letter of September 24?—A. I thought it referred to District 'F.'

Q. It does refer to District 'F' and the chief engineer makes a recommendation?—A. (reads):

'In reviewing the whole situation in District 'F' I am of opinion that it would be a grave mistake to place the contractor in the position that he would have to

abandon the work, as I am satisfied it would in the end cost more money to complete than if he were given some little assistance. Such assistance should not be given by the engineers classifying material other than according to specifications, but might be given by authority from you to increase the prices east of mile 190 for item 5, loose rock; item 6, common excavation; items 23, 24, 25, 26, 27, 28, 29 and 30 in reference to timber; item 74, train-hauled surfacing; and item 75, ballasting; or, failing your being in a position to do so, by instructing me in writing to classify all material other than solid rock, loose or easily worked sand, gravel or muskeg, under the heading of item 5, loose rock and use rock borrow in place of trestle wherever common excavation for the purpose of making up embankments is not obtainable within a reasonable distance, or to pay for standard trestle at cost plus 10 per cent. Whatever is done the force on the work should be increased by at least two thousand men.'

By the Chairman:

Q. Well, do you see anything in that paragraph to justify the charge you have made?

By Mr. Lennox:

Q. One moment, Mr. Chairman, before you get away from this. Would this reference 'and exceeds that recommended by the chief engineer in his letter to the commissioners, dated September 24th, 1907,' refer to the paragraph you have just read?—A. Yes..

The CHAIRMAN.—In what way?

Mr. LENNOX.—Classification, and this is what they recommend.

Mr. CARVELL.—I do not see how the witness can answer the question in that manner because the suggestion in the charge is that the commissioners classified higher than the contract calls for.

Mr. LENNOX.—And the statement in the paragraph is that they classified still higher.

Mr. CARVELL.—Well, I would like to see where the proof is.

Mr. LENNOX.—Evidently the reference to the letter is all right.

Mr. CARVELL.—That may be true.

The CHAIRMAN.—I think it would be more satisfactory if the witness would answer questions himself rather than have members of the committee discussing it and telling him how to answer. If he cannot answer, all right. But we want to find out how he came to make that charge?

The WITNESS.—You see things have changed very much since I have read that second opinion of Mr. Lumsden, which certainly should alter that classification now.

By Mr. Murphy:

Q. Well, can you, or can you not, Major, point out wherein the classification approved by the commissioners exceeds that recommended by the chief engineer in his letter to the commissioners of September 24th, 1907? Can you or can you not point that out?—A. No, not at once.

Q. When you were down in District 'B' did you meet Division Engineer Bourgeois?—A. I don't remember.

Q. Do you know him?—A. No.

Q. Or did you meet Resident Engineer Matthews?—A. I would not remember.

Q. Do you know him?—A. I don't remember. Possibly if I were to see them now I might recall the circumstance; I don't remember the names.

Q. Did you meet Assistant District Engineer Huestis?—A. Yes.

Q. Did you meet Assistant Engineer Hervey?—A. Yes.

Q. Do you know both of these gentlemen, Engineers Huestis and Hervey?—A. I met them down in Quebec.

Q. Did you have any discussion with them as to classification?—A. I don't think so.

Q. Would they, as the men in the field down in that district, in your estimation, be the proper men to classify in their division?—A. Yes, they would.

Q. They would be the best men, I understand, from your evidence, to classify?—A. Well, I don't know what they——

Q. I mean holding the positions they hold?—A. Yes, they would be all qualified to classify.

Q. In your evidence last night, Major, you stated that in your opinion this interpretation of the chief engineer of the specifications was wrong in some respects. Now, would you just point out in what respects you think it is wrong?—A. Well, I think in that clause for solid rock. He says it is solid rock or must be in ledges.

Q. Then first of all I take it——A. I mean in giving the interpretation of the specifications to cover that conglomerate material, in that wording.

Q. Is that the respect in which you think the chief engineer's interpretation is wrong. That is solid rock according to your idea?—A. Yes.

Q. And that is the only respect in which you think it is wrong, in your opinion?—A. Yes. Well, of course, he has got detached ledge rock in mass over one cubic yard. That I would certainly pass as rock and plum pudding stone. If it is the same class of material that I call plum pudding stone I would certainly call it solid rock. But it is a stone of itself. A conglomerate rock or plum pudding stone is a collection of boulders or stones held together by a mixture that is more like flint than sand. The pudding itself, you may call it, is as hard as rock or is rock itself of a flinty material, and these pieces of stone, boulders and things, are fused into it. I would call that under any circumstances solid rock because it would be solid rock.

Q. Now, taking the interpretation of the chief engineer as to the classification of these diffeerent materials, your objection, as I understand it, extends to plum pudding or conglomerate rock? Is that it?—A. Solid rock would be rock found in ledges or rock found in masses of rock—a boulder, for instance.

By Mr. Hodgins:

Q. That is your view of it?—A. That is mine.

Mr. Hodgins.—My learned friend is asking as to the chief engineer's view.

By Mr. Murphy:

Q. No, no, pardon me. Just in one sentence, would you please tell the committee in what respect you think the interpretation is wrong in your opinion?—A. I will have to get his opinion.

Q. I am asking you to point out to the committee?—A. I want to get his opinion to point out to the committee. It is worded in a certain way. Speaking from memory——

Mr. Hodgins.—Do not speak from memory. Get the chief engineer's opinion and speak from that.

Mr. Murphy.—The witness either does not understand or else he is taking me off into a bypath. Last evening the witness stated that in his opinion in a certain respect the chief engineer's interpretation is wrong and I am asking him now to point out in what respect it is wrong.

Mr. Lennox.—He is proceeding to do that.

Mr. Murphy.—I want to ask the witness to answer for himself and not to refer to the file.

Mr. Lennox.—But he must refer to the file for the purpose of ascertaining exactly what the chief engineer said. Having looked at that opinion and ascertained what the chief engineer's opinion was he is in a position to point out exactly where he thinks it is wrong.

The Witness.—Well I can say without reading it. I considered there were two meanings to be taken out of it, two interpretations.

By Mr. Murphy :

Q. Who is to determine who is right and who is wrong ?—A. According to the specifications the chief engineer was to, but according to his diagram he puts it up to the engineer on the work unless he goes down and views the work himself and forms a judgment.

Q. Cannot you in one sentence explain to the committee in what respect you think the interpretation of the chief engineer is wrong?—A. Well I think he is wrong because there are two—I can interpret them from two different ways. I interpreted last night in one way and I can interpret it another way now if you want me to.

Q. Do you say that in your opinion he is wrong merely because you disagree with him ?—A. I disagree with him.

Q. That is the idea, is it?—A. I disagree with him. It is an engineering opinion

Q. Do you know, Major, that the interpretation given by the chief engineer is corroborated by Mr. Collingwood Schreiber and by the engineers in the field.

Mr. LENNOX.—How does he know that ?

Mr. MURPHY.—I am asking him.

The WITNESS.—I think Mr. Collingwood Schreiber is wrong but I say that with all due deference.

Q. And what about the engineers in the field ?

Mr. HODGINS.—That is not the question that was asked the witness.

Mr. CARVELL.—I think that is a fair question.

Mr. LENNOX.—I say that if he gets an opinion from the documents before us he should not deal with it. If he gets it from another source or from talking with Mr. Schreiber it is a different thing.

Mr. CARVELL.—I cannot accede to that view. Here is an intelligent man, a man who is almost an expert, and we are discussing certain documents. I see no reason why the witness should not be asked for his interpretation of the documents in order to assist us in coming to a conclusion?

Mr. LENNOX.—That is not what I am objecting to. Ask the witness does he know that Mr. Schreiber's opinion corroborates the opinion expressed by the chief engineer ?

Mr. MURPHY.—Well, he is an intelligent man.

Mr. LENNOX.—Wait a moment. I say that if he only knows that from the documents before us he ought not to make a statement. We are the parties to interpret the meaning of any documents before us and not the witness.

The CHAIRMAN.—Let him say how he knows it ?

Mr. LENNOX.—How do you know it, from the documents before the committee or otherwise ?

Mr. CARVELL.—I was not here yesterday and if there was a ruling then given on this matter I suppose I am bound by it ?

Mr. LENNOX.—There was a ruling to-day.

Mr. CARVELL. As far as I am concerned I am going to protest against it. I think the witness ought to be a most competent man to help us to come to a true understanding of these documents. I am not an engineer, this man is and I want his opinion.

Mr. HODGINS.—He is asked if he knows that Mr. Schreiber's opinion agrees with that of the chief engineer ?

Mr. MACDONALD.—The question is does he know it ? The fact of how he knows it is a subsequent thing.

By Mr. Lennox :

Q. How do you know it ?—A. How do I know it ?

By Mr. Carvell :

Q. Do you know it ?—A. Yes.

By Mr. Lennox :

Q. How do you know it ?—A. Mr. Lumsden refers to it in each one of his opinions.

Mr. LENNOX.—I submit that cannot be given. We are the sole judges of the meaning of these documents, not the witness. The witness could not give an interpretation as to whether the various sub-engineers agreed with the opinion of the chief engineer and the question was ruled out on that account. I take the same objection to the question again. When there is an original document and the witness has access to it the same as we have we must judge of that ourselves and not the witness.

Mr. CARVELL.—I know, but as an expert engineer there is no objection to reading certain portions of a document and asking the witness what interpretation he puts upon that document.

The WITNESS.—My interpretation is not infallible.

Mr. CARVELL.—Certainly not, it is your opinion.

Mr. LENNOX.—Just wait until the chairman has ruled.

Mr. CARVELL.—In answering, the witness will help this committee to come to a proper conclusion.

Mr. MACDONALD.—What is your object in getting this testimony?

Mr. LENNOX.—You had better let the chairman give his ruling.

The CHAIRMAN.—It is the same ruling. I cannot give another ruling from the one I gave. At the same time I think I must say that I see a little difference in this as compared with the previous case. Here is a witness, an expert, who is asked what is his opinion of the opinion of Mr. Schreiber, the chief consulting engineer—what he understands by his interpretation of a certain thing. I think I will have to give the same ruling, although I think that the circumstances are a little different. Nevertheless I must rule against it just the same as I did before.

Mr. MACDONALD.—There is this phase of the question, Mr. Murphy: you can direct Major Hodgins' attention to the particular statement which indicates what Mr. Schreiber's view is and you can base a question upon that.

The CHAIRMAN.—I think that could be properly done.

Mr. LENNOX.—You can take Mr. Schreiber's opinion and have it read to the witness and ask him if he agrees with it.

Mr. HODGINS.—I quite agree with that.

The CHAIRMAN.—Show him Mr. Schreiber's opinion so that he can read it .

Mr. MURPHY.—We were speaking rather about the opinion of the chief engineer and the concurrence between Mr. Schreiber and the former.

The CHAIRMAN.—Yes.

Mr. LENNOX.—That would be wrong.

The CHAIRMAN.—But how can he give an opinion offhand without looking at Mr. Schreiber's opinion?

Mr. MURPHY.—He has seen it He read from the documents that he had in his hand last night, some file that he has, not any file that we handed in.

Mr. LENNOX.—That can go to the extent the chairman has indicated. He can be asked whether he agrees with Mr. Schreiber's opinion or not. If he does not agree with it in what particular does he disagree?

Mr. MURPHY.—Then I will ask him now. The witness referred to it.

Mr. HODGINS.—No, he did not.

Mr. MURPHY.—Then, major, I ask you now whether you agree with the interpretation of Mr. Schreiber, concurred in by the chief engineer?

Mr. LENNOX.—Oh no, you cannot put that question. That is what the chairman has already ruled on. There is no question of concurrence at all. You can take Mr. Schreiber's opinion, place it in the hands of the witness, ask him to read it and state whether he agrees with it or not. He can say if he agrees or disagrees; if he disagrees in what respect he does so.

Mr. MURPHY.—My understanding is that the witness had these opinions and referred them last night?

The WITNESS.—It is the opinion of the chief engineer, the last paragraph of the chief engineer's opinion refers to Mr. Collingwood Schreiber. I don't think Mr. Collingwood Schreiber——

By Mr. Lennox:

Q. Have you seen Mr. Schreiber's opinion at all?—A. No. Except that I have got a reference to it.

By Mr. Murphy:

Q. Then is the opinion of Mr. Schreiber, to which reference has been made, the one referred to in the letter of the chief engineer from which you have been quoting?—A. Yes, it is referred to in the letter here.

Q. Then you have seen the opinion?—A. I have not seen Mr. Collingwood Schreiber's opinion. Mr. Lumsden says at the end of his letter (reads):

'This interpretation was made by me after consulting with Mr. Collingwood Schreiber, general consulting engineer to the government.'

Mr. HODGINS.—He may have disagreed with him.

By Mr. Murphy:

Q. Do you know, major, whether the interpretation of the men in the field was concurred in—that is with regard to District 'B' and District 'F', so far as your successor, Mr. Poulin, is concerned—by the chief engineer?—A. Their opinion was——

Q. Their interpretation?—A. Was concurred in by the chief engineer.

Q. Yes?—A. Yes, I think Mr. Poulin and Mr. Doucet both concurred with the chief engineer in this opinion.

Mr. LENNOX.—That is not what you are asked.

Mr. CARVELL.—That is what he was asked.

Mr. LENNOX.—No, it is the reverse. Does he know whether the opinion of these engineers in the field was concurred in by the chief engineer?

The WITNESS.—The opinions of the engineers in the field?

Mr. LENNOX.—The opinion of these two men.

Mr. HODGINS.—I would like to have the opinion produced, because there are half a dozen questions involved in that.

The WITNESS.—That I could not say. I could not answer that question because the chief engineer——

Mr. CARVELL.—You have the letter there of December 15th or 16th?

The WITNESS.—No, January, 9th. The chief engineer lays down a certain interpretation of the specifications and Mr. Doucet and Mr. Poulin follow it out and certify that the work on their districts agrees with the chief engineer's interpretation.

By Mr. Murphy:

Q. And is it not a fact that is the interpretation that is approved by the commossioners?—A. That is approved by the commissioners.

Q. You remained in District 'F', major, for some time after your successor, Mr. Poulin, came there?—A. Well I was there for a short time.

Q. Yes, you had frequent conversations with him?—A. Just one or two.

Q. Do you remember a letter that was written by Mr. Poulin, while you were there, to the chief engineer for instructions regarding classification?—A. Mr. Poulin read to me a letter from the chief engineer to him——

Q. Yes?—A. In which the chief engineer had asked him for his opinion on the wording of the specifications and Mr. Poulin said he was writing a letter, and I think he read the draft of it to me, or the letter he was sending off that day, in which he said it was the chief engineer's place to give an opinion before asking a division engineer, or words to that effect. Probably he did not put it quite as brusquely as that.

APPENDIX No. 5

By Mr. Murphy:

Q. Was there any other discussion on classification between you and Mr. Poulin before you left ?—A. No, not that I remember. You see the—it seems to me the only issue now is the correct and proper interpretation of these specifications and I do not see that I am called upon to prove it, I cannot.

The CHAIRMAN.—That is about it.

Mr. LENNOX.—I entirely dissent. This is not the time to argue but I entirely and absolutely dissent from that proposition.

The WITNESS.—It is rather hard on me to have to—

Mr. LENNOX.—That is not at all the question as the witness suggests.

By Mr. Macdonald:

Q. You regard that as practically the only question left now, the question of whether your view of the classification is correct ?—A. That is all.

Q. That is all. I understand you to say, from the information that you have gathered since coming into this matter, Major, that you feel that you can not say that you have any imputations to make upon the Commissioners in regard to any improper interference, with the engineers for instance ?—A. With those legal and engineers' opinions there I do not see that I have.

Q. And you are not in a position to offer any evidence to show that they exercised any improper interference with the engineers ?—A. No.

Q. In regard to that matter in which the statement was made here that Sir Wilfrid Laurier refused investigation on account of the influence exercised on him by Mr. Parent ; I understand you are not in a position to say, or to offer any evidence that would show that Mr. Parent attempted to influence Sir Wilfrid in any way, or are you ?—A. No, not unless Mr. Parent came up to say he did.

Q. You have no evidence of that?—A. I have none.

Q. And in regard to the question of engineering you apparently as an engineer, with your experience, took a certain view as to how the wording of these specifications should be interpreted ?—A. Yes.

Q. Now you find that since you put in the statement here, Mr. Lumsden, on January 10th laid down certain instructions for the engineers to follow which may be said to be an interpretation from his standpoint of what the specifications mean ?—A. Yes.

Q. You were not aware of this being in existence at the time you wrote to the *Colonist* on April 16th, were you ?—A. No.

Q. I suppose in regard to these opinions of counsel on the meaning of the specifications you had no intimation of them at the time you wrote the letter ?—A. Another man's opinion is just as good as mine, as a matter of fact every engineer's opinion is valuable to himself.

Q. And it is a question upon which men may differ quite honestly ?—A. Certainly.

Q. You do not impute to these gentlemen any improper motives in their ideas ?—A. Not after reading Mr. Lumsden's letter.

Q. You made use of the expression the other day that you did not regard this committee as the proper tribunal to determine the question at issue ?—A. With all due deference to the committee I do not; it is an engineering dispute and as far as I am concerned I quite believe that the arbitrators who are appointed for the purpose should deal with this question of classification and I think that the board of arbitrators is the only right and proper tribunal to determine it.

Q. And any evidence you have to offer in regard to this matter, to this question at all, whatever is left of it now, is evidence that you would prefer to give to this tribunal of arbitrators that has been appointed under the statute?—A. Exactly.

Q. They are people in whom you have confidence that they can settle this question in the interest of this country fairly?—A. Absolutely.

Q. And you are prepared to accept their judgment on this question of classification as absolutely fair from your standpoint and in the interest of the country?—A. Certainly; I would not put myself in the way at all; they have to look after the interest of the country.

Q. And you regard this board of arbitration as being the proper tribunal to determine whatever there is in issue in this matter?—A. They are the proper tribunal.

Q. Personally, Major, it does not seem to me—or have you any desire to go on before this committee through your counsel offering evidence and taking up the time of this committee, or wouldn't you prefer to give it all before the arbitrators?

Mr. LENNOX.—Would it not be better to hear counsel?

By Mr. Macdonald:

Q. What do you say to that, Major?—A. What is that again?

Q. Have you any desire to go on giving evidence here in view of what you have said now, or do you, not think that the proper tribunal to determine this question is the board of arbitrators composed of Mr. Woods, Mr. Lumsden and a third arbitrator?—A. I do not think it is for me to answer that. I think it is for the committee to decide that.

Q. Have you any desire to go on presenting evidence before this committee, or do you take the position that you regard Mr. Woods and Mr. Lumsden as being the expert engineers and the gentlemen contemplated under the statute to determine this question of classification—do you regard these as the proper people to determine that question?

Mr. LENNOX.—That is a question of law and of the interpretation of the contract.

Mr. MACDONALD.—I object to being interrupted by Mr. Lennox, or any other gentleman, just when I reach the crucial stage of my questioning.

Mr. LENNOX.—I have just as good a right to interrupt as any other gentleman, and I propose to exercise my right.

Mr. MACDONALD.—Pardon me, you have not the right to object to a question put by a member of the committee; you have the right to object to a question put by counsel. I will ask any question I want to as a member of this committee without interruption by you.

The CHAIRMAN.—Mr. Macdonald has the witness in hand now.

Mr. LENNOX.—I know that, but I have the right to object to a question.

The CHAIRMAN.—You object to the question?

Mr. LENNOX.—I object to the question. The witness is asked the question whether Mr. Wood and Mr. Lumsden are not the proper persons to interpret this contract.

Mr. CARVELL.—Whether, in his opinion, they are not the proper parties to determine the question of classification.

Mr. LENNOX.—I submit that the interpretation of this contract is not for this witness.

Mr. MACDONALD.—I did not ask about the contract at all. I think every one of us here all recognize Mr. Hodgins' position. I think in stating what he has stated here to-day he has shown himself to be a frank and honourable man, who realizes that a mistake has been made on certain lines, and is willing to admit it. I think he is entitled to the full credit that every man is entitled to when he sees he has taken an improper course and wants to remedy what has been done. The question I want to ask Major Hodgins is this : Whether you do not regard Mr. Lumsden and Mr. Woods and, in the event of their disagreement, some other engineer who is to be appointed, as being the men who can better deal and better decide upon the point you wish to make about that question as to proper classification?

Mr. CARVELL.—Than this committee would be?

Mr. MACDONALD.—I do not want to put it in that way. Do you think, Major,

that Mr. Lumsden and Mr. Woods are the better parties—you have already told us you are perfectly ready to accept their decision?

A. I think their decision will be just and impartial, and if they disagree some well known engineer ought to be called in.

By Mr. Macdonald:

Q. I understand you to say you do not desire to press before this committee any charge of wrong-doing on the part of the commission as far as their interference with the engineers is concerned, is that a fair statement?—A. That is right.

Q. And as far as that phase of the inquiry is concerned, you do not offer any evidence for our consideration?—A. It is simply this, that I do not see why I should stand the expense of finding out whether the specification is right or wrong.

Q. Or whether the academic question between engineers should be settled at your expense, that is the position you take?—A. Yes.

By Mr. Carvell:

Q. Following up that a little further, in case it were necessary for this committee to go on and render a decision as to whether the classification was correct or incorrect, in your opinion would it not be necessary to have the evidence of independent engineers not connected either with the Transcontinental Commission or the Grand Trunk Pacific?—A. To settle this question?

Q. Supposing the committee decided to go on and settle the question and render a decision upon it, in your opinion would it not be necessary to call in the services of independent engineers who have no connection whatever with either the Transcontinental Commission or the Grand Trunk Pacific as witnesses?—A. Provided that Mr. Lumsden and Mr. Woods disagree?

Q. No, no, leaving them out of the question entirely, supposing this committee attempts to make a thorough investigation of this question would it not be necessary for us to call in the evidence of independent engineers?—A. Just on the wording of the specifications, or the interpretation of the specification on the work do you mean?

Q. I do not care whether you take the interpretation of the specification or the question of classification on the work itself?—A. The most independent tribunal would be the council of the Canadian Society of Civil Engineers.

Q. That would be an independent body?—A. You could not get any better than that.

By Mr. Macdonald:

Q. The major says he is prepared to take the decision of Mr. Lumsden, Mr. Woods and a third arbitrator.

Mr. CARVELL.—But I mean if this committee wants to go further. I have been at a loss myself as to what course to pursue. There has been a charge of over classification on the part of the engineers of the commission, and that raises an issue directly between the engineers of the commission and the Grand Trunk Pacific. I assume that one set of engineers will stand by one side of the case, and the other set of engineers will stand by the other side, and I am asking Major Hodgins here, who is the third party at the present time, in a sense, if we want to come to a conclusion on that point will it not be necessary to go outside and have the evidence of independent engineers who have no connection with either party?—A. Yes, that would be one way of getting at it, an impartial way.

Mr. MACDONALD.—I understand that the major says he does not want to be kept here at an expense to himself to settle an academic question that will be fairly and properly settled by Mr. Lumsden and Mr. Woods.

By Mr. Lennox:

Q. That does not touch the point that the House has instructed us to do a cer-

tain thing; Mr. Carvell made that point by saying that if it is proper for us to go on and decide whether there is improper classification or not would it not be right to call in independent engineers and the witness says, yes.—A. But then I think ,in a dispute of that kind, the Grand Trunk Pacific and the Transcontinental Commissioners should be consulted as well as myself—you say I am a third party.

The CHAIRMAN.—Of course all parties would be consulted in that case.

Mr. MACDONALD.—What was referred to us was this letter or memorandum of Mr. Parent together with the letter of Major Hodgins to the public press therein referred to, with instructions to investigate the matters and charges therein mentioned. I understand what was referred to us was the statements contained in Major Hodgins letter of April 16, because he disclaimed connection with that interview which appeared in the papers, and I understand that Major Hodgins has told us to-day with regard to the imputation against the commission respecting improper interference by them with the engineers that he is not in a position to go on with that. I understand you to say that the only issue that has been raised which remains out of this whole question to-day is the difference of opinion that exists between him and the other engineers as to the interpretation of the specification. I understand you also to say that you know that the statute respecting the Transcontinental Railway Commission provides for the settlement of all disputes of this character by a board of arbitration composed of the chief engineer of the Transcontinental Railway and the chief engineer of the Grand Trunk Pacific, and in the event of a disagreement a third arbitrator is to be appointed by the chief justice, and that so far as you are concerned you think that is the proper tribunal to settle that which is the only remaining issue; and that as far as you are concerned that is the only tribunal and you are prepared to accept their judgment. That being the case, there is I think, nothing left for this committee to go on with.

Mr. LENNOX.—I do not at all agree with the conclusions arrived at by Mr. Macdonald, but I do not propose to argue that question to-night in the absence of Mr. Barker, or that we shall take any definite action in his absence. I desire to say, however, that I entirely dissent from the proposition of Mr. Macdonald that what is referred to us is what is stated in the letter of Major Hodgins, as Mr. Macdonald says. The order of reference set forth is:—

'Resolved, that the memorandum of the chairman of the Transcontinental Railway Commissioners to the Prime Minister, of date the 23rd April, and laid on the table of this House on the 24th instant and the papers accompanying the same, together with the letter of Major Hodgins to the public press therein referred to, be referred to a special committee of five members."

Mr. MACDONALD.—'With instructions to investigate the matters and charges therein mentioned.'

Mr. LENNOX.—Now, the letter of Major Hodgins is only one of the documents referred to us; there is mentioned here particularly the letter of the chairman of the Transcontinental Railway Commissioners, and when we look at the documents that were actually attached and referred to us we find a number of documents in addition to the letter referred to, any of the charges contained in any one of those documents is a matter for us to investigate. It is true this matter was begun by the letter written by Major Hodgins, and that the matter was taken up by the press; rightly or wrongly the press made certain statements, for instance, the 'Colonist' made certain statements, and the 'Free Press,' Winnipeg, and the 'Citizen' here in Ottawa made certain statements; Major Hodgins does not necessarily have to stand back of those statements and charges, but the matters are all referred to us, all papers and documents attached to the memorandum laid on the table of the House, and any charge contained in any one of these we are bound to investigate. Now, sir, one of the particular charges contained in these documents is this, was there or was there not a proper classification ?

Mr. MACDONALD.—Incorrect classification, not 'improper.'

Mr. LENNOX.—Well, incorrect classification. I am quite willing to take that word for the purpose of argument, incorrect, if it were improper it would imply more than that, but taking Mr. Macdonald's statement that it is incorrect—if it is found to be improper it would involve some wrong-doing, but even if there was not any wrong-doing whatever and I am not going to impute wrong-doing unnecessarily, yet if it is incorrect classification it affects the interests of the public and we are to investigate and find out whether incorrect or improper. I use the word improper in the sense of not being correct, classification prevailed.

Mr. MACDONALD.—What do you propose to do about it? Major Hodgins says he has nothing further to offer to the committee and who is going to prosecute the inquiry.

Mr. LENNOX.—We are bound to investigate and to take the responsibility of bringing before this committee such persons as can give us evidence in that regard. We have the fact before us that a very serious controversy exists between the Grand Trunk Pacific Railway and the commission as to the classification. That dispute has not been settled; there is that question outstanding, the question as to whether the classification is right or wrong.

Mr. MACDONALD.—That may be all true, but parliament has solemnly and deliberately said that if there is going to be disputes between the Grand Trunk Pacific and the Transcontinental Railway commission, we are going to say how those disputes shall be settled, we are going to provide a system and a board of arbitrators to settle such disputes, and that has been embodied in a statute. Not only that, but these arbitrators have gone to work and are now engaged in settling that question.

Mr. CARVELL.—Would it not be well to consider, in view of the fact that this very situation was anticipated and provided for by parliament, whether this committee should go on and by taking evidence upon it drag in this whole question and attempt to render a decision in anticipation of what the legally constituted board of arbitration may do.

Mr. LENNOX.—I still hold to my argument, here is the view that I take of it. We have a right to inquire whether the right classification is prevailing upon that line or not. In the end when the accounts come to be adjusted between the Grand Trunk Pacific and the country it may be that the classification that has been allowed will not be allowed in the adjustment of accounts between the company and the commission but in the meantime——

Mr. MACDONALD.—But you will pardon me, Mr. Lennox, whatever Mr. Lumsden and Mr. Woods settle, or the third arbitrator decides, it does not make any difference what we do, as a matter of law that settles what is to be paid. We must assume that Mr. Lumsden and Mr. Woods are honest men and will give their honest opinion.

Mr. CARVELL.—I have had that before me ever since the investigation has started; what object can there be in us investigating this question when no matter what we do it will have no value as compared with the decision of the Board of Arbitrators.

Mr. LENNOX.—Certain charges have been initiated by Major Hodgins, that is only like the beginning of a war where some person fires a gun and the war commences, but after that they are not the main element in it. In this case as soon as Major Hodgins fired his gun the press took it up and made certain grave charges against the management of this railway. Parliament referred to us the question to find out whether improper classification prevailed on that railway or not. For my part as far as I can see at the present time I am of the opinion that very serious improper classification has occurred on that railway.

Mr. MACDONALD.—It could not have occurred, because it does not occur until these gentlemen, Mr. Lumsden and Mr. Woods say it shall occur.

Mr. LENNOX.—I understand that the quantities of solid rock and loose rock allowed by such classification upon the railway as far as it has been constructed have

not been what they should be, and that is what we are investigating for the purpose of satisfying the public mind which is at unrest on account of the charges which have been made. It may be when other evidence is brought forward that this evidence which is before us now may be strengthened or it may be weakened. There is one point that has been dwelt upon a great deal and that is the question of Mr. Lumsden's latest interpretation of the contract. I am not at all satisfied with that interpretation of the contract although I have great respect for Mr. Lumsden.

Mr. CARVELL.—But under the statute aren't you compelled to admit he is right?

Mr. MACDONALD.—The country has to pay it anyway. There is not a contractor in the country who has a contract with the Transcontinental Railway Commission that cannot make this country pay every dollar that Mr. Lumsden and Mr. Woods certify, all the investigation here from now to doomsday to the contrary.

Mr. CARVELL.—To my mind Mr. Lumsden is the most important official in Canada to-day, he has more power than any other official in the country.

Mr. LENNOX.—I am not at all certain that his interpretation is correct and what we are bound to pay is what, according to the proper classification, is certified, Mr. Lumsden may be right or he may be wrong.

Mr. CARVELL.—No, we are bound to pay according to Mr. Lumsden's classification.

Mr. LENNOX.—Excuse me, we are not bound to pay according to his certificate if he does not agree with what the Grand Trunk Pacific agrees to.

Mr. CARVELL.—Read the statute.

Mr. LENNOX.—Never mind about reading the statute. If they disagree we have the arbitrators appointed by statute as has been said. The evidence of Major Hodgins as far as he has gone is this that he is not satisfied Mr. Lumsden's classification is correct.

Mr. CARVELL.—Assuming he says that, then there is the point where would we be? Assuming that Mr. Lumsden's classification is correct and is justified, then, as he says, there would not be much ground for this proceeding.

Mr. LENNOX.—But the witness says that Mr. Lumsden's classification is not correct in his opinion.

Mr. MACDONALD.—But he says he is prepared to have Mr. Woods and a third arbitrator determine whether he is right or not.

Mr. LENNOX.—But we are not to be guided by Major Hodgins in this matter, it has been referred to us by the House to deal with.

Mr. MACDONALD.—But there is now absolutely nothing for the committee to deal with.

Mr. LENNOX.—That we must argue out, but in the meantime there is no object in pursuing it. I may not be equal to maintaining this matter against three or four learned gentlemen. But I want to make it perfectly clear that the question of the scope of the inquiry has gradually widened, and I think it is absolutely necessary for us to pursue the inquiry along the lines that have been referred to us. It will take some little time to analyse exactly what there is in the reference to us, but I want to make it clear that I do not agree with the theory that our labours are at an end.

Mr. CARVELL.—I am very glad that this matter has come up, not that we are going to decide it right here, because Mr. Barker, I quite understand, will want to be here, The evidence of what is the proper classification has been before my mind considerably ever since the investigation has begun, and if there is no way provided by statute for meeting these exigencies I would feel that this committee ought to bring outside witnesses and arrive at some conclusion. But it does seem to me that the statute creating the Transcontinental Railway Commission foresaw that these things might happen and provided a remedy for them and I think we are travelling a long way if this committee attempts to set up its mind against the properly constituted authority, because even if we come to a conclusion, if that conclusion be at variance with the decision of the arbitrators we would only make ourselves ridiculous and it would have no effect whatever. Therefore it seems to me that it is not only useless, but a very

improper course to spend our time attempting to find out whether certain classification is correct or incorrect.

Mr. HODGINS.—May I suggest that it would be advisable for the committee to rise now and meet again to-morrow when Mr. Barker is present, because I would like to say a word or two to the committee. I have heard the views which have been expressed by the members of the committee to-day, and I am appearing here as counsel for Major Hodgins. I have not expressed my views, and I suppose I have the right to do so after consulting my client.

Mr. CARVELL.—Is it understood that Mr Murphy is through with his cross-examination ?

Mr. PARENT.—Not by any means.

The CHAIRMAN.—This is only an expression of the views of the committee.

Mr. HODGINS.—I thought it wise to make the suggestion at this stage.

Mr. CARVELL.—We may go on and finish the cross-examination of the witnesses.

Mr. HODGINS.—I think I have something to say, representing Major Hodgins, as to the proceedings before this committee. What he has stated here this afternoon he stated as a witness there in the box, he has not stated it through me. I should like to consider the situation not only with regard to myself, but with regard to the position of the committee, I think there are some matters which will have to be laid before the committee.

Mr. MACDONALD.—The committee will have to look after itself, quite irrespective of yourself or Major Hodgins.

Mr. HODGINS.—Of course, I understand that, and if you so rule I will sit down.

Mr. MACDONALD.—Not at all.

Mr. HODGINS.—But I think, in a matter of such importance as this, it is advisable that the committee should not come to a hasty decision, but that it should hear what is to be said after my conference with my client, and possibly there may be some matters to bring before them that they may not have in their minds at the present moment; and after that it will be for them to say what they will do. For myself, I will cheerfully obey the decision that they come to.

Mr. MACDONALD.—The situation, it seems to me, at this moment is that Major Hodgins, in a very frank and straightforward way, after familiarizing himself with the facts and the evidence not within his knowledge and not before him some months ago, very frankly told the committee just where he stands now. As far as I am concerned, as a member of the committee, I think he has done what any honourable man should do, in coming forward and stating what he has stated this afternoon. As to what is to be done in the future, gentlemen, that is a matter for consideration. For the time being I think Mr. Murphy might go on if he wants to, and it might perhaps be wise to consider what the position is going to be, and perhaps we might adjourn until this evening.

The CHAIRMAN.—I think it is well we had this discussion, because it will narrow down the proceedings materially. I think myself it was better that we had this discussion now, and we will rise until 8.30 this evening.

Mr. HODGINS.—I ask that the file of papers containing the legal opinions regarding the interpretation of the specifications and letters in reference thereto be filed as an exhibit.

The file containing sixty-two letters and papers was filed and marked as Exhibit No. 38, and is as follows:—

EXHIBIT No. 38.

MONTREAL, QUE., Oct. 7, 1907.

Mr. HUGH D. LUMSDEN,
Chief Engineer, Eastern Division,
National Transcontinental Railway,
Ottawa, Ont.

Classification of Material, District 'B.'

DEAR SIR,—At the request of District Engineer Armstrong, he was furnished recently with a statement of classifications for the heavier work on the above section, which were, when given in detail, so different from his expectations that he requested the writer to visit the work.

During the past week we passed over portions of the work from the Batiscan river west for fifteen or twenty miles, and later from mile 115 to 132.

With reference to the former portion, the classification was given in distances of from three to five miles, and as we did not have total quantities of graduation, could not judge with reference to any particular cutting, although percentages for entire distance seemed excessively heavy in both loose and solid rock.

With the latter portion we had detailed percentage for each cut, and were greatly surprised at the allowances made for solid and loose rock. In nearly every case where the cuttings were not entirely all ledge the estimate given for solid rock is double, or more than double, what it should be. In fact, the specifications had been entirely ignored and an excessive allowance made, not by reason of an error in judgment, but, as I understand, by special instructions from the assistant district engineer.

Let me give you some illustrations:

Take the cutting from stations 5818 to 5826, estimated 71 per cent solid rock and 29 per cent loose rock, slopes taken out 1½ to 1. Very little ledge in this cut. Some large boulders, but a very large percentage is common excavation.

Station 5842 to 5860.—Classified 94 per cent solid rock, 6 per cent loose rock. Slopes taken out 1½ to 1. Solid rock over-classified at least 100 per cent.

Station 5866 to 5875.—Estimated 80 per cent solid rock, 20 per cent loose rock. No rock in place in this cut. Many large boulders, but a large amount of earth.

Station 5882 to 5901.—Estimated 78 per cent solid rock, 22 per cent loose rock. A large amount of this cut wasted with slip scrapers, and ploughing being done with two horses. There are hundreds of yards of earth here without a stone, large or small.

Station 6030 to 6046.—Estimated 40 per cent solid rock, 10 per cent loose rosk. This is the large sand cut west of O'Brien's camp. Of the 95,000 yards moved to August 31st in this cut, at least 80,000 yards was pure sand.

Station 6071 to 6078.—Estimated 99 per cent solid rock, 1 per cent loose rock. Very little solid rock in place. Slopes taken out 1½ to 1.

West of St. Maurice River.

Station 6391 to 6394.—Estimated 46 per cent solid rock, 33 per cent loose rock. Sand cut with few boulders, and possibly 1,500 yards ledge in bottom of cut not yet taken out.

Station 6493 to 6504.—Estimated 20 per cent solid rock, 49 per cent loose rock. No evidence of ledge and very few large boulders; nearly all sand.

Station 6506 to 6512.—Estimated 16 per cent solid rock, 44 per cent loose rock. This is purely a sand cut, with very few boulders. Upper slope nearly 100 feet high, material wasted into river. Certainly not 10 per cent of this should be classified.

Station 6522 to 6548.—Estimated 26 per cent solid rock, 49 per cent loose rock. This is borrowed material from the side. Very little solid rock shown, except what was used for blind drains, but some large boulders not placed in embankment.

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On account of heavy rains we were not able to go west of station 6600, but we understand that classification is made about as noted above.

In every case where cuttings are not entirely in ledge we find the material over-classified very largely. Mr. Armstrong has been able to visit this work at different times, perhaps quite as often as the assistant district engineer. His estimate and my own are not very different as to the amount of classified material, and until he received detailed quantities he had no intimation that such heavy classification had been given. In many cases, particularly in sand and gravel cuts, he had supposed that no classification would be given, except perhaps for a few boulders as loose rock.

I am informed also that on the work east of the St. Lawrence river heavy classification is being made in borrowed material where ploughing is done with one team and material moved in slip scrapers.

As before stated, these over-classifications are not made through error in judgment, nor upon the decision of the resident or division engineers, who are fully acquainted with the character of the work, but by arbitrary orders from their superior. To such classification as mentioned above, increasing the cost of the work to such an alarming extent, we most seriously protest, and respectfully request that either yourself or the assistant chief engineer visit the work and pass judgment upon the classification as made. Please note that the percentages given above indicate the work done to August 31st. We are not advised what the September estimate will show.

Yours truly,

H. A. WOODS,
Assistant Chief Engineer.

EXHIBIT No. 38 (1).

La Tuque, October 17th, 1907.

C. L. Hervey, Esq.,
Assistant District Engineer,
Quebec.

Dear Sir,—Referring to your inquiry about the classification of the work on my division, I wish to state that the classification of material is based on the appearance of the work at the different stages of the work, and not as it appears presently, when about completed.

To ascertain the proper classification of the material, for over two months I kept men measuring all the boulders coming out of the cuts; the classification was based on their reports, and carried on from month to month according to the appearance of the work.

Yours very truly,

BENJ. BOURGEOIS,
Division Engineer.

EXHIBIT No. 38 (2).

Ottawa, October 18, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

Sirs,—Referring to the September estimates in District 'B,' which I now beg to hand you, I may say that from the complaint made by the assistant chief engineer of the Grand Trunk Pacific Railway in a letter to me of the 7th instant, and from a verbal statement made to me on the 12th instant, by Mr. Doucet, our district engineer at Quebec, it would appear to me some material may be classified as rock which

should be classified otherwise, still as the amount of security held by you for the completion of the work seems to me ample, and the holding back of the estimate at this date without notice to the contractors might be a serious matter, I have approved of these estimates, on the distinct understanding that before any further estimates are passed time be given and a full investigation made into the matter of classification throughout District 'B,' and that my approval of these, or any previous estimate of a similar character, should not prejudice the reconsideration and necessary correction of the classification, and consequently of the amount estimated therefor.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (3).

OTTAWA, October 18th, 1907.

Messrs. McDONELL & O'BRIEN,
Contractors,
Montreal, P.Q.

DEAR SIRS,—I have the honour, by direction of the board, to hand you herewith a copy of a letter from our chief engineer, dated the 18th instant, reporting in regard to complaint received from the assistant chief engineer of the Grand Trunk Pacific Railway with respect to classification under contracts for construction in District 'B'.

I am to advise you that the board has approved the recomendation of the chief engineer, and that it has been arranged that the engineers of the company and of the commission shall meet in Quebec on the morning of the 24th instant, and shall from there proceed to La Tuque, for the purpose of investigating the complaint of the assistant chief engineer of the Grand Trunk Pacific Railway with respect to classification. It is considered advisable that you or your representative should accompany the engineers on that occasion.

Yours very truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (4).

OTTAWA, October 18, 1907.

Messrs. M. P. & J. T. DAVIS,
Contractors, Quebec, P. Q.

DEAR SIRS,—I have the honour by the direction of the board, to hand you herewith a copy of a letter from the chief engineer, dated the 18th instant, reporting in regard to complaint received from the assistant chief engineer of the Grand Trunk Pacific Railway with respect to classification under contracts for construction in District "B."

I am to advise you that the board has approved the recommendation of the chief engineer, and that it has been arranged that the engineers of the company and of the commission shall meet in Quebec on the morning of the 24th instant, and from there shall proceed to La Tuque, for the purpose of investigating the complaint of the assistant chief engineer of the Grand Trunk Pacific Railway with respect to classification. It is considered advisable that you or your representative should accompany the engineers on that occassion.

Yours very truly,

P. E. RYAN,
Secretary.

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EXHIBIT NO. 38 (5).

OTTAWA, October 18, 1907.

F. W. MORSE, Esq.,
Vice-President and General Manager, Grand Trunk Pacific Ry.
Montreal, P. Q.

DEAR SIR,—As directed by the board, I beg to hand you herewith a copy of a letter from our chief engineer dated the 18th instant, with respect to September estimates of work done by the commission's contractors in district 'B,' and the complaint contained in letter of Assistant Chief Engineer Woods, of your company, to our chief engineer, dated the 7th instant, relating to classification of material in District 'B.'

I am to advise you that the board has approved the report of the chief engineer, and has given instructions that the chief engineer of the commission and District Engineer Doucet shall meet your chief assistant engineer, Mr. Woods, and your district engineer, Mr. Armstrong, in Quebec on the morning of the 24th instant, and proceed with them and the contractors, or their representatives, to La Tuque, for the purpose of investigating this complaint.

It was understood that the district engineers of your company and of the commission were to discuss any matter pertaining to the economic and efficient construction of the line, and that in the event of an agreement not being arrived at all matters should be referred through the chief engineers of the company and of the commission respectively to the general manager of the company and to the commission for decision.

In this connection I am to point out that your district engineer, Mr. Armstrong, failed to notify District Engineer Doucet of any disagreement with respect to classification of material in District 'B,' and instead of discussing the matter with Mr. Doucet communicated with your assistant chief engineer, Mr. Woods, who in turn made his complaint to the chief engineer of the commission.

Although this procedure was distinctly irregular, the commissioners have taken full cognizance of Mr. Woods' complaint, and have given directions that the matter be fully investigated.

Under the circumstances, the commissioners would be pleased if you will direct Messrs. Wood and Armstrong to meet our engineers and contractors, or their representatives, in Quebec on the morning of the 24th instant, and proceed with them to La Tuque, for the purpose of investigating the merits of the complaint.

Yours very truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (6).

OTTAWA, October 18, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—I beg to advise you that the board has approved your report with respect to your approving the September estimates of work done by contractors in district 'B.'

I am writing to the contractors, requesting that they acompany the engineers of the Grand Trunk Pacific Company and of the commission from Quebec on the morning of the 24th instant to La Tuque; also to the general manager of the Grand Trunk

Pacific Company, advising of the action of the commissioners, and requesting that Mr. Woods and Mr. Armstrong accompany our engineers.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (7).

QUEBEC, October 19, 1907.

A. E. DOUCET, Esq.,
District engineer, Transcontinental Railway,
Quebec, P.Q.

DEAR SIR,—In accordance with your instructions of recent date, I have been over the ground at La Tuque looking over the matter of classification, and beg to say that while I have been for a short time only on this piece of work, my investigation and observation lead me to believe that the classification given generally on the division is fair.

It must be remembered that Mr. Bourgeois and his assistant have been on this work continuously, and should be able to judge how the work should be classified as it progressed. Attached letter from Mr. Bourgeois shows that he has seen evidence to justify him in his estimate of the work.

I deny absolutely the statement that the specifications have been entirely ignored, and that the classification is based entirely upon instructions from myself or any preceding assistant district engineer. I deny the imputation that we have been ordered to give excessive quantities to anybody by way of our superiors.

I deny absolutely that Mr. Woods or any other engineer can visit a piece of work one year after the work had been in progress, and state off-hand what amount of money should have been paid to the contractors, or what classification they should have been receiving during the months past. We dispute the statement that this classification has been given by error in judgment.

Mr. Woods says that in October he saw some material being moved by scrapers and ploughed by two horses—he may rest assured that where such is the case earth shall be returned for such work in October estimate, and if such a thing occurs again in November it will again be returned in November estimate.

I understand from you that Mr. Woods also says that there were only about 300 men on O'Brien & Martin's work the day he was there; our timekeeper shows that O'Brien & Martin have an average of about 780 men. Mr. Woods probably did not figure on the night shift, and missed some of the day men, or else visited the work on a rainy day.

Yours very truly,

C. L. HERVEY,
Assistant District Engineer.

EXHIBIT No. 38 (8).

QUEBEC, October 21, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—I think that the enclosed letter from Mr. Bourgeois, division engineer on division 7, is a direct reply to a direct accusation of the assistant chief engineer of the Grand Trunk Pacific Railway that 'over-classifications are not made through error in judgment nor upon any decision of the resident or the division engineers

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who are fully acquainted with the character of the work, but by arbitrary orders from their superior.'

I shall also produce a letter from Mr. Girdwood, resident engineer of Residency No. 27, who is just now recovering from an attack of typhoid fever, that Mr. Woods' accusations are altogether unfounded.

For my own part, I may state that such accusations are not only uncalled for, but most unprofessional as we in Canada understand professional etiquette.

Mr. Woods' verbal statement made before you in my office that there were but 300 men on O'Brien & Martin's contract at the time of his visit, tended to throw discredit on our time-keeper's and engineer's force reports. I have to re-assert that our time-keeper is prepared to swear that his returns are correct, and that for the week ending September 25th the number of the men on the work was 893; for the week ending October 5th, 712; for the week ending October 12th, 766 men. It might be pertinent to inquire from Mr. Woods whether he is aware of any night gangs working on O'Brien & Martin's contract, and if so, how many ?

The sub-contractor for the tunnel and D. R. MacDonald have over 300 men between them. Martin & O'Brien claim an average of 830 men on the whole of their contract.

Mr. Woods asserted positively in my office and in your presence that the classification should be left to the division and resident engineers who are continually over the work. I have to say that this is exactly what has been done, and that it is Mr. Woods himself who has attempted to classify the work after a single visit, and not our assistant district engineer, by the means of arbitrary orders.

As the letter of the assistant chief engineer of the Grand Trunk Pacific Railway will go on file, I must claim the same privilege for my answer thereto.

Yours very truly,

A. E. DOUCET.
District Engineer.

EXHIBIT No. 38 (9).

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

QUEBEC, October 22, 1907.

DEAR SIR,—I enclose you herewith Mr. Girdwood's statement as regards the classification of the material throughout his residency. I would feel obliged if you would attach same to Mr. Bourgeois' letter on the same subject already sent you.

Yours very truly,

A. E. DOUCET.
District Engineer.

EXHIBIT No. 38 (10).

TRANSCONTINENTAL RAILWAY,
Asst. District Engineer,
RESIDENCY 27.

C. L. HERVEY, Esq.,
LA TUQUE, P.Q., Oct. 21, 1907.
Transcontinental Railway,
Quebec.

DEAR SIR,—In regard to classification.

The work on my residency was classified according to what appeared on the work at the time, and in conjunction to approval of the divisional engineer.

Yours truly,

E. P. GIRDWOOD,
Resident Engineer.

MAJOR HODGINS.

EXHIBIT No. 38 (11).

QUEBEC, October 26, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—I have already had occasion to state to you verbally the interpretation the engineers in District 'B' have placed on the classification of solid and loose rock, and in accordance with which the progress estimates have been returned since the inception of the work.

So that our views of this interpretation may be put before you concisely and clearly, I beg now to state: 1. That we have classified as solid rock all ledge work, all boulders measuring more than one cubic yard, all masses of small boulders and cemented material which, in our judgment, were best removed by the continual use of explosives. 2. We have classified as loose rock all detached boulders of more than one cubic foot and less than one cubic yard, and all material which, in our judgment, could not possibly be ploughed in the practical sense of the term.

I have never had occasion to force my views on my assistants at all, to a man, have taken the same interpretation of the classification as I have. We have all used the precautions possible to arrive at a fair classification of materials, and our returns of explosives certainly show that the solid rock has not been over-classified. I have repeatedly conferred with my assistant district engineers on this matter, and they in their turn have gone over the work with the division and resident engineers and classified according to their convictions as to the interpretation of the classification. I attach herewith reports from my assistants on this important question.

Yours very truly,
A. E. DOUCET,
District Engineer.

EXHIBIT No. 38 (12).

QUEBEC, October 26, 1907.

A. E. DOUCET, Esq.,
District Engineer.

DEAR SIR,—In compliance with your request as to the interpretation I put and have personally applied to the clauses of the specifications referring to solid rock excavation and loose rock excavation, I beg to say: that in the article 34 the wording 'Solid rock excavation will include' suggests that something else than actual rock is to be considered, and thus further down the word 'masses' appears which to my mind covers what solid rock excavation does include, and therefore the word 'masses' in clause 34 I take, and always have taken, to refer to 'masses' of material (not necessarily masses of rock) which might best be removed by blasting.

On District 'B' I apply this word 'masses' more particularly to cemented gravel, on account of the fact that it is best removed by blasting and by continuous blasting.

In Article 35, Loose rock, all material which could not be sensibly or judiciously ploughed by a plow and six horses, I would consider loose rock, and such a cut in my opinion would consist entirely of loose rock and solid rock, by actual measurement, with the exception that should a pocket of common excavation be found in a cut, such pocket should be classified as common excavation by actual measurement.

In any conversation with division or resident engineers I have expressed these as my views.

In reference to the approval of Mr. Woods, assist. chief engineer of the Grand Trunk Pacific, to the classification given on the work of Messrs. O'Brien & Martin I was present at La Tuque when Mr. Woods visited there in June, and I understood from Mr. Grant that Mr. Woods was there at that time at the request of Mr. John W. Armstrong, to approve or condemn the existing classification. As he did not condemn,

the only conclusion was that he approved, and since that time I had no reason to doubt that Mr. Woods' interpretation of the specifications was not the same as my own.

Although Mr. Woods distinctly stated on the trip to La Tuque just completed that his interpretation was different to that as expressed by me, yet Mr. Armstrong told me that when he and Mr. Woods visited the work in the early part of October cut from Station 5950-5969 which is classified by Mr. Bourgeois as 88 per cent S.R. 12 per cent L.R. was judged by Mr. Woods to be 100 per cent S.R. which he could not possibly state on his declared interpretation of the specifications, as the eastern end shows a cut where masses of material rather than ledge rock occur.

Yours very truly,

H. F. HUESTIS,
Assist. District Engineer.

EXHIBIT No. 38 (13).

A. E. DOUCET, Esq.,
District Engineer,
Quebec.

QUEBEC, October 26, 1907.

DEAR SIR,—I wish to state that my interpretation of the clauses 34, 35 and 36 of our standard specifications is as follows:

Clause 35, Loose Rock. I consider loose rock any material that for any reason whatever cannot be ploughed by six horses or that cannot be handled satisfactorily without occasional blasting. When I say cannot be ploughed or handled without the necessity of occasional blasting, I mean handled satisfactorily or in a workmanlike manner, without the necessity of occasional blasting in my judgment or ploughed satisfactorily and in a workmanlike manner in my judgment.

Clause 34—Solid Rock Excavation:—

I consider solid rock excavation any material in ledges or masses of more than one cubic yard which in my judgment may be best removed by continued blasting, no matter how it is being removed by the contractors.

Clause 36—Common Excavation—is self explanatory.

I base my instructions to those under me and my estimates of these interpretations.

Yours very truly,

C. L. HERVEY,
Assistant District Engineer.

EXHIBIT No. 38. (14).

October 26, 1907.

Benjamin Bourgeois, division engineer of division No. 7, declares as follows :

My interpretation of section 34 of the specification is :—

Solid rock includes all rock in ledges, boulders measuring one cubic yard or more and masses of rock cemented together or any other hard material which must be continually blasted to be removed, which measure one cubic yard or more in the mass but need not necessarily measure one cubic yard to each separate piece of rock or other material composing the mass.

My interpretation of section 35 is :—

Loose rock includes all material that can be removed by hand, pick, bar or shovel that cannot be ploughed but may require occasional blasting.

My interpretation of section 36 is :—

Common excavation includes all material that can be ploughed or in other words free shovelling material.

MAJOR HODGINS.

The way the classification of division No. 7 was arrived at is as follows :—

The ledges were measured and the exact amount of ledge rock returned, also all surface boulders measuring one cubic yard or more not included in the cross-sections.

For a few months at the commencement of the work a man was on the line daily doing nothing but measuring the boulders of one cubic yard or more in the cuts and the boulders of one cubic yard or more above the surface of the ground and not included in the cross-sections.

This gave us data as to the percentage of boulders in each cut such percentage ranging from 30 per cent. to 90 per cent. of the yardage done in the different cuts.

After that we went over the line and estimated the percentages of the yardage of the different cuts that were taken up by masses of cemented rock or other hard material that required blasting to be removed ; we had the boulders of less than one cubic yard and not less than one cubic foot measured at the same time as the larger boulders which gave us data as to the percentage of boulders included in the loose rock for each cut and we also estimated the percentage of material that could not be ploughed in each cut but which would not be included in the solid rock.

All other material was returned as common excavation.

I have taken communication of the letters written by Mr. H. A. Woods, assistant chief engineer of the Grand Trunk Pacific, on 7th October last, to Mr. Lumsden, chief engineer of the Transcontinental Railway, complaining that the specifications have been entirely ignored and an excessive allowance of solid rock made not by reason of an error in judgment but by special instruction from the assistant district engineer and not on decision of resident or division engineers.

The complaints referred to the cuts from stations 5818 to 5826, 5842 to 5860, 5866 to 5875, 5882 to 5901, 6030 to 6046, 6071 to 6078, 6391 to 6394, 6493 to 6504, 6506 to 6512, 6522 to 6548.

My answer to Mr. Woods' accusations as above is that all the classification in each and every cut referred to has been made by the resident engineers and myself according to our best judgment and interpretation of the specifications, and not by special or arbitrary instructions from the assistant district engineer or any other superior officer.

I may say that M. Armstrong, who is the engineer of the Grand Trunk Pacific for district ' B,' went over the said works and he never objected to me of our classification. I have 33 years experience as an engineer, and I have followed in this case the same course that I have done before when I was working with other companies.

I contest the figures given by Mr. Woods in his said letter because they are erroneous and not justified by the continual inspections made of the work by the resident engineers and myself.

I consider that it is not possible for a man like Mr. Woods or any other man to classify such work after a single inspection of the cuts in question. I consider that the classification I and my resident engineers have made over the different sections has been impartial and just and I persist in holding to this opinion notwithstanding any inspection which has been made by outside engineers after the work has been completed or partly completed.

I declare that I was never forced to classify any of the work aforesaid through arbitrary orders of my superior officers including the commissioners, district and assistant district engineers and the chief engineer.

In the month of June last the chief engineer, Mr. Lumsden, inspected part of the work with the Grand Trunk Pacific railway engineers, Messrs. Woods and Armstrong, the district engineer, Mr. Doucet, and myself. This inspection included some of the cuts in which the classified material now in question exists to a very large extent, and he then expressed no dissatisfaction with the classifications and he did not then make any objections to the classification returned by myself and the resident engineers, and the estimates were approved accordingly.

We have since followed the same interpretation of the classification.

BENJ. BOURGEOIS,

Div. Engineer.

APPENDIX No. 5

EXHIBIT No. 38 (15).

A. E. Doucet, Esq.
District Engineer,
Quebec.

Quebec, October 26, 1907.

Dear Sir,—My interpretation of section 34 of the specifications is:

Solid rock includes all rock in ledges, boulders measuring one cubic yard or more and masses of rock cemented together, or any other hard material which must be constantly blasted to be removed, which shall measure one cubic yard or more in the mass, but shall not necessarily measure one cubic yard to each separate piece of rock or other material composing the mass.

My interpretation of section 35 is:

Loose rock includes all material that can be removed by hand, pick, bar or shovel, that cannot be ploughed, though blasting may be occasionally resorted to.

My interpretation of section 36 is:

Common excavation includes all material that can be ploughed; or in other words, free shovelling material.

The way the classification of Residency No. 26 was arrived at is as follows:—The ledges were measured and the exact amount of ledge rock returned, also all surface boulders measuring one cubic yard or more not included in the cross-sections.

For the three months at the commencement of the work a man was on the line daily doing nothing but measuring the boulders of one cubic yard or more in the cuts and the boulders of one cubic yard or more above the surface of the ground, and not included in the cross-sections.

This gave Mr. Bourgeois and myself data as to the percentage of boulders in each cut, such percentage ranging from 30 per cent to 90 per cent of the yardage done in the different cuts. After that we went over the line and estimated the percentages of the yardages of the different cuts that were taken up by masses of cemented rock or other hard material that required continuous blasting to be removed. I had the boulders measuring less than one cubic yard and not less than one cubic foot measured at the same time as the larger boulders, which gave Mr. Bourgeois and myself data as to the percentage of boulders included in the loose rock for each cut, and we also estimated the percentage of material that could not be ploughed in each cut, but which could not be included in the solid rock.

All other material was returned as common excavation.

Yours very truly,

ALLAN R. MATTHEWS,
Resident Engineer, Residency 26.

EXHIBIT No. 38 (16).

Ottawa, October 30, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

Sirs,—In regard to Mr. Woods' letters to me of the 7th and 8th instant, my letter to you of the 18th instant and the secretary's letter to me of the latter date, I may say that in accordance with the last mentioned letter I left Quebec, accompanied by yourselves, on the evening of the 24th instant, arriving in the vicinity of La Tuque on the morning of the 25th, accompanied by Mr. Doucet, District Engineer; Mr. Grant, Inspecting Engineer; Messrs. Heustis and Hervey, Assistant District Engineers; Mr. Bourgeois, Division Engineer; Mr. Matthews, Resident Engineer; Messrs. Woods and Armstrong, engineers for the Grand Trunk Pacific; and Messrs. O'Brien and Davis, contractors.

On arrival near the crossing of the Quebec and Lake St. John Railway I, accompanied by the engineers and contractors, walked over a portion of the heaviest work on the line from about mile 117 to 122½. From the division or resident engineer I learned the classification allowed by them in the cuts as we passed through them, and it appeared to me, according to my interpretation of our specifications, that a larger amount of solid rock was returned in them than appearances indicated, and the engineers, in my opinion, returned loose rock or cemented material, where a considerable amount of explosives were used, as solid rock.

An interview was held on the car after our return at which ourselves, engineers and contractors were present, and from the conversation which took place, and the statements of Mr. Doucet, Messrs. Grant, Heustis and Hervey, confirmed by letters from Messrs. Bourgeois, Matthews and Girdwood, it appears Mr. Woods must have been in error when he stated that 'the specifications had been entirely ignored and an excessive allowance made, not by reason of an error in the judgment, but, as I understand, by special instructions from the assistant district engineer,' or, as stated by him in the latter part of his letter, by arbitrary orders from their superior.

After this interview I requested Mr. Doucet to make a statement, and get statements from the assistant district engineers, and division and resident engineers on this portion of the work of how they interpreted the specifications. This has been done, and herewith I beg to hand you a letter from Mr. Doucet dated the 26th instant, together with letters to him from Assistant Oistrict Engineers Heustis and Hervey, statement from Davision Engineer Bourgeois, and letters from Resident Engineers Matthews and Girdwood. I also attach copy of Mr. Doucet's letter of the 21st in reply to Mr. Woods' letter of the 7th instant.

I can only say that I do not concur with the interpretation placed on clauses 34, 35 and 36 of the general specifications by Mr. Doucet or the engineers under him. In my opinion solid rock excavation, clause 34, covers all material that should be classified as solid rock, viz., all rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.

Loose rock, clause 35 : In my opinion this clause covers all large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock, whether in situ or otherwise, that may be removed by hand, pick, or bar; all cemented gravel, indurated clay and other materials that cannot, in the judgment of the engineer, by being ploughed with a ten inch grading plough behind a team of six good horses properly handled, and without the necessity of blasting, although blasting may be ocasionally resorted to. The fact that contractors may resort to blasting to a greater extent than the word 'occasionally' may infer, in order to facilitate the removal of such material, would not, in my opinion, convert it into solid rock.

Such being my views, and as stated to you in my letter of the 18th instant, I must decline to certify to any future estimates, except upon classification in accordance with my interpretation of the specifications above mentioned, unless both parties to the contract agree to amend the contract formally, with due concurrence of the government, or until the estimates are corrected to conform with my interpretation. In any event, I ask that this correspondence be at once submitted to the government.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (17.)

OTTAWA, Nov. 4, 1907.

H. ATKINSON, Esq.,
Law Clerk.

DEAR SIR,—I beg to hand you herewith a copy of a letter from Messrs. Macdonell & O'Brien, dated Oct. 31st, questioning the right of the G. T. R. Company to interfere

with regard to the matter of classification under the contract between the commissioners and Messrs. Macdonnell & O'Brien.

The commissioners desire that you will report in regard to the representations made by Messrs. Macdonell & O'Brien.

Yours truly,
P. E. RYAN,
Secretary.

EXHIBIT No. 38 (18).

MONTREAL, Oct. 31, 1907.

P. E. RYAN, Esq.,
Secretary of the Commissioners of the Transcontinental Ry.,
Ottawa, Ont.

DEAR SIR,—We have the honour to acknowledge the receipt of your letter of the 18th inst., with which was enclosed a letter of the same date from your chief engineer reporting in regard to a complaint received from the assistant chief engineer of the Grand Trunk Pacific Railway Company. The complaint referred to has since undergone consideration on the spot.

While we at all times wish to meet any representation coming to us with the deference and consideration to which it is entitled and especially when communicated to us through the board of commissioners, we must at the same time protest against any right claimed by the Grand Trunk Pacific Railway to interfere in the matter of classification under the contract existing between your board and ourselves. Our contract is for a section of the work comprised within the eastern division, and the contract between His Majesty the King and the Grand Trunk Pacific Railway expressly provides in section 5 that 'The said Eastern Division shall be constructed by, and at the expense of, the government, upon such location and according to such plans and specifications as it shall determine, having due regard to directness, easy gradients and favourable curves.'

By the 6th section of the contract 'The company agrees to take lease of, maintain and operate the said Eastern Division.'

By he 7th section it is provided that 'In order to insure, for the protection of the company as lessees of the Eastern Division of the said railway, the economical construction thereof in such a manner that it can be operated to the best advantage, it is hereby agreed that the specifications for the construction of the Eastern Division shall be submitted to, and approved of, by the company before the commencement of the work, and that the said work shall be done according to the said specifications, and shall be subject to 'joint supervision, inspection and acceptance of the chief engineer appointed by the government and the chief engineer of the company, and, in the event of differences as to the specifications, or in case the said engineers shall differ as to the work the questions in dispute shall be determined by the said engineers and a third arbitrator, to be chosen in the manner provided in paragraph four of this agreement.'
as to the said engineers and a third arbitrator, to be chosen in the manner provided in paragraph four of this agreement.'

These three sections clearly show that the work of construction is to be carried on by the government of Canada upon such locatio. and according to such plans and specifications as it shall determine, 'having due regard to directness, easy gradients, and favourable curves.' But in order to insure for the protection of the company the economical construction 'in such a manner that it (the Eastern Division) can be operated to the best advantage,' it was agreed that these specifications should be submitted to, and approved of by the company 'before the commencement of the work,' and that the work should be done according to the specifications and subject to the joint supervision and inspection and acceptance of the chief engineer appointed

by the government and the chief engineer appointed by the company. And for what purpose? Obviously, in the first instance, that the company should have an opportunity 'before the commencement of the work' to consider whether the plans and specifications referred to in Section 5 quoted above 'have due regard to directness, easy gradients and favourable curves.'

And again, it is stipulated that in the event of difference between the respective engineers in regard to the specifications, that the question in dispute should be determined by the engineers and a third arbitrator to be chosen by them, or in the event of inability to agree, on a third arbitrator to be named by the Chief Justice of the Supreme Court of Canada as provided in Section 4 of the contract.

When the plans and specifications have been agreed upon the sole right of the Grand Trunk Pacific Railway is jointly with the government to supervise and inspect the work which is to be subject as between the government and the company to the acceptance of the chief engineer of the government and the chief engineer of the company. And here again, in the event of difference between the two engineers as to whether the 'work' is carried out in accordance with the plans and specifications, there is provision for arbitration, but that arbitration could only take place on the completion of either the whole or at least a section of the work, and that would be a matter entirely between the government and the Grand Trunk Pacific Railway Company.

There is no provision whatever for the engineers of the Grand Trunk Pacific Railway Company interfering between the commissioners and the contractors in regard to the matter of classification. That is a matter entirely between the contractors and the government engineers. The pretension of the assistant chief engineer of the Grand Trunk Pacific Railway Company to supervise classification under the contract between the undersigned and the government would involve an intolerable system of dual control that is not recognized either by the statutes or the contract, and that would be absolutely unworkable in practice.

We insist, and on this point we are strengthened by the opinion of competent and experienced counsel, that the Grand Trunk Pacific Railway Company have no right whatever in the prosecution of our contract to interfere in the matter of classification; that the right remains entirely with the engineers under the contract existing between us and the government, and this position we intend to adhere to, and if necessary we will test the matter in the courts.

In making this statement it must be perfectly understood that we are not courting any difficulty with the Grand Trunk Pacific Railway Company or with any one else, and that our representations are made with respectful regard for the authority of the commissioners and their rights under the statutes providing for their administration.

Most respectfully yours,

MACDONELL & O'BRIEN.

EXHIBIT No. 38 (19).

OTTAWA, November 7, 1907.

P. E. RYAN, Esq.,
Secretary.

DEAR SIR,—Yours of the 4th instant with copy of letter from contractors Macdonell & O'Brien dated October 31st ult., has been considered, and in reply beg to report that I concur with the view taken by the contractors so far as it concerns the rights and powers of the engineer of the G.T.P. Railway Co., in relation to the question of classification under the contract and specifications as between the contractor and the commissioners. The letter is evidently the production of a lawyer who has carefully analysed the Act.

APPENDIX No. 5

I might say, however, that after the specifications have been agreed on and the contract for the work entered into they are annexed to and form a part of the contract. Section 7 of the Act provides that 'the said work shall be done according to the said specifications. Paragraphs 33 and 35 of the specifications provide that classification shall be under the control of the engineer, that is, the engineer as defined in clause 2 of the contract, namely, the chief engineer of the commissioners. He and his assistant engineers are invested with full powers in regard to classification, as between the contractor and the commissioners.

The Grand Trunk Pacific Company approved of the specifications before the work began, and then so far as the work is concerned its right is limited by the Act to supervision, inspection and acceptance through their chief engineer acting jointly with the chief engineer of the government, and which is a matter between the government and the company.

I can find nothing in the statutes or the contract whereby the company has a right to interfere in the matter of classification as between the contractor and the commissioners.

I do not agree with the opinion of the contractors that in the event of difference between the two engineers as to whether the work is carried out in accordance with the plans and specifications, that arbitration only could take place on the completion of the whole, or at least a section of the work. It might well happen that during the progress of the work differences would arise between the two engineers that would have to be settled by arbitration, otherwise the joint supervision and inspection would be comparatively futile.

I am, yours very truly,

H. ATKINSON,

Law Clerk.

EXHIBIT No. 38 (20).

OTTAWA, Nov. 11th, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—In regard to the contractors' estimates for October and your request that I will approve of same, as owing to the absence of the Minister of Railways and his deputy from Ottawa, it may be impossible to have my letters of the 18th and 20th of October and correspondence attached submitted to the government and action taken thereon before the middle of this month, when such estimates should be paid to the contractors, and, as stated in mine of the 18th of October, the holding back of the estimates at this date without notice to the contractors might be a serious matter, I would be prepared to approve of the October estimates, provided it is distinctly understood, as already requested in mine of the 30th October, that no further delay takes place in submitting my letters of the 18th and 30th of October and attached correspondence for consideration of the government, so that this whole matter may be definitely dealt with before the estimates for November come in.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (21).

WINNIPEG, November 12th, 1907.

DEAR MR. PARENT,—Letter from secretary, Mr. P. E. Ryan, under date of October 18th noted, and during my absence Mr. Woods was requested to meet Mr. Lumsden

in Quebec, for the purpose of reviewing the work. I understand that this has been done.

The object of this letter is to answer the second paragraph, page 2, in which the secretary states 'In this connection I am to point out that your district engineer, Mr. Armstrong, failed to notify District Engineer Doucet of any disagreement with respect to classification of material in District 'B,' &c., and again, 'Although this procedure was distinctly irregular, the commisisoners have taken full cognizance of Mr. Woods' complaint, &c.

The understanding when I had the pleasure of meeting you and the commission, was that departmental matters would be worked out by the heads of departments, and failing to agree, same would come before your colleagues, Mr. Woods and myself, and I consider, up to the present time, that there has been no violation of this. The fact of the matter is it is more difficult for Mr. Armstrong and Mr. Doucet to have meetings at times when such meetings are most urgent, and I think one of the best demonstrations of this is that, upon the arrival of the chief engineer, Mr. Lumsden, and assistant chief engineer, Mr. Woods, at Quebec, for the purpose of going over this work, Mr. Doucet could not then devote the time to take the trip. I consider it was perfectly proper on Mr. Woods' part to take this subject up, as he did with Mr. Lumsden. It was then optional whether Mr. Lumsden, on his own accord, met Mr. Woods and tried to agree on these points, and failing, referred the subject to the commisison, Mr. Woods and myself, or whether the entire commission took it up with Mr. Woods alone at that time, which I understand they did.

We desire and intend to co-operate in these matters as far as possible, and expect to be met in the same way.

Yours very truly,

FRANK W. MORSE.

Hon. S. N. Parent,
Chairman, Transcontinental Railway Commission,
Ottawa, Ont.

EXHIBIT No. 38 (22).

Ottawa, Nov. 13th, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

Sirs,—Herewith please find replies received by me from District Engineers Dunn, Molesworth and Poulin, now in charge of the construction, to my letter dated the 29th ulto., as follows:—

'Will you please at once send me your interpretation of clauses 34, 35 and 36 of our general specifications especially as to clause 34.'

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (23).

St. John, N.B., November 2, 1907.

Hugh D. Lumsden, Esq.,
Chief Engineer, T. C. Ry.,
Ottawa.

Dear Sir,—In reply to your letter of the 28th ult., file 7787, in regard to solid rock excavation, clause 34 of the general specifications, I would say that I interpret

same to mean all rock in bulk over and above one cubic yard in measurement, no matter if seamed and no matter what degree of hardness from granite to slate, if sufficiently compact to necessitate blasting. But I would not classify as solid rock a number of pieces of rock, each measuring somewhat less than a yard, no matter how many there might be of them, if they were separated by gravel, clay or other material.

In regard to loose rock, clause 35. This I consider a more difficult clause to interpret, as it does not deal alone with loose rock proper, but with other material harder than ordinary clay or gravel, as well as with stones, boulders or rock measureing more than one cubic foot. The essence of this clause appears to be to allow the contractor a reasonable price for material that will cost more to move by ordinary means and proper management than ordinary clay, gravel, loam, etc.

The test, that material cannot, in the judgment of the engineer, be ploughed with a ten-inch grading plough behind a team of six good horses properly handled, without the necessity of blasting, although blasting may be occasionally resorted to, can be classified as loose rock, I do not consider very definite, as I have seen shale rock that could not under any ordinary specification be classified in any other way than solid rock, ploughed fairly well with six horses. I have also seen clay that, under certain conditions, undoubtedly could be ploughed to a certain extent, but even after same had been done would require to be picked, and would necessitate so much handling that it would cost at least half as much again as material classified under common excavation. And again, an experienced teamster could smash his harness or plough if he wished to do so in making a test of material any harder than sand, or probably even in sand itself. Then I do not think it would be fair and just, or under the spirit of the specification and general usage and procedure on railway works, as understood by the contractor when making tenders, that such material should be returned entirely as common excavation. Very many companies in drawing up their specifications for loose rock make it for rock, only giving the number of feet measurement to qualify, and under which conditions there can be no difficulty in determining exactly what is meant, but under clause 35 of our specification I do not feel that there is any very definite point at which a line can be drawn. The engineer has got to use good judgment and common sense, or otherwise there is a possibility of making a return to the contractor in excess of what he is entitled to; or, on the other hand, practically putting him out of business.

Common excavation, clause 36, I would interpret to mean all material which would not come under the heading of solid rock, loose rock, excavation foundations or removal of moss, and I would also interpret that the above classification in all cases, clauses 34, 35 and 36, under our specifications should be allowed the contractor whether the work is done by hand or steam shovel, except under clause 224.

In reference to clause 36A, I consider that if we are not in a position to give a contractor borrow, that would come under clause 36. We would be obliged to allow him classification similar to what he receives for grading on the centre line. This would apply to all borrow pits, including borrow from side ditches.

I may say that I wrote Commissioner McIsaac in October, 1906, suggesting that the district engineers should meet say once a year in Ottawa for a few days, have an informal meeting amongst themselves in the morning to discuss general matters of work, and have a session in the afternoon or evening, with either yourself or the assistant chief in the chair, when all questions such as, more particularly, classification might be discussed from various points, and a certain standard arrived at to enable the direction of the work in the various districts between Moncton and Winnipeg to be as uniform as local conditions will allow. I still believe that if this idea could be carried through, it would be a great benefit to our work as a whole.

Yours very truly,

GUY C. DUNN,
District Engineer.

EXHIBIT No. 38 (24).

OTTAWA, November 4, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—In answer to your letter of October 29, file 7787, *re* classification, would say that I would interpret clause 34 of our general specifications to mean that all rock in ledges or masses of more than one cubic yard should be classified as 'solid rock.' Would also interpret the last portion of clause 34, viz.: 'Which, in the judgment of the engineer, may be best removed by blasting,' to mean that conglomerate rock, composed of small boulders cemented together in such a manner that they could not be removed without blasting, would also be classified as solid rock.

Clause 35 I interpret to mean just what it says. Do not see that there can be any misunderstanding regarding this clause.

Clause 36 is also perfectly clear.

Yours truly,

A. N. MOLESWORTH,
District Engineer 'C.'

EXHIBIT No. 38 (25.)

KENORA, Ontario, November 8, 1907.

H. D. LUMSDEN, ESQ.,
Chief Engineer, Ottawa.

DEAR SIR,—In answer to your request, your file 7787.

I have not yet had time to go over the estimates in detail. I returned here from my trip over the line on October 30, and it takes almost all my time to catch up to the correspondence, because I have to go through files of from 20 to 30 letters before I can grasp the subject in order to answer it.

I may say that in going over the line I took notes at every one of the cuts without passing many comments. I had detail sheet estimates with me, and in some cases I told the division engineers they had been rather liberal ; in other cases I thought they had used a broom over the cuts to gather the earth. I was then using my judgment as I have been in the habit of doing on similar work during the last thirty years, without paying any special attention to the wording of the clauses referred to in your two letters, viz.: 34, 35 and 36.

I must say my eyes opened out when I read them carefully, and I am surprised at the different ways in which they can be interpreted ; so much so that I think it will require a well worded definition in order to enable us to understand plainly what is meant.

Take clause 34. Why has the word 'masses' been used, instead of the usual boulders or loose rock measuring more than one cubic yard ? I maintain it can rightly mean 'masses of rocks cemented together,' which, in the judgment of the engineer may be best removed by blasting. Otherwise, loose rocks, measuring more than one cubic yard and up to two yards, moved by derrick without having been first blasted, would have to and must be returned as loose rock and not solid rock.

Please bear in mind I am not saying I have acted, or intend to act, according to that interpretation, which I fairly believe is the only possible one to any one who has not been conversant with specification and practice under the same clause differently worded.

This is then supposed to be left to the judgment of the engineer, and it is borne out by the last two lines of clause 35, which say that although blasting may be occasionally resorted to, it shall still be classified as 'loose rock.' This I claim was

put in to give the engineer a check over the contractors, so that they cannot claim solid rock every time they put in a blast.

The same clause 35 defines that loose rock may be removed by hand pick or bar, although the contractor may resort to occasional blasting. Still, the engineer in his discretion may return it as loose rock, but not so when blasting is absolutely necessary.

According to this clause, which gives power to an engineer to call cemented gravel (marked well, not cemented boulders) indurated clay and other material that cannot be ploughed, &c., loose rock. It is not on account of the geological formation of a boulder, or of the different constituent ingredients which form the composition of these different materials which classifies them as loose rock ; but it is due to the fact that their removal costs as much as that which has hitherto been classified as loose rock, when loose rock alone in the form of a boulder, one cubic foot upwards to 99-100 of a cubic yard was to be returned as loose rock.

If such is the case, then an engineer who is the judge upon the work, and has to use his judgment, cannot, if he wants to be logical and consistent, do otherwise then return as solid rock masses of cemented boulders which cannot be removed without blasting, and which are not covered by any other clause in the specifications than 34.

'Time is the essence of the contract.' You order a contractor to open a rock cut, which has two or three feet of earth and boulders stripping frozen solid to the ledge. How is an engineer to return that ?

'We have a wet clay cut where teams after an hour's work will get mired, and five to ten horses could not stand to plough. How are we to return this ?

There is nothing to cover these cases and I could cite a great number of others.

The only thing, if I remember well, is that, at a convention of American engineers, gathered to discuss classification a few years ago, it was resolved that only three items, rock, loose rock, and earth, should be used; but it was also put forward by a majority present that when any material would arise on which the classification was not explicit, or which was not fully covered by the specifications, the engineer should classify it under the heading to which it belonged, from a computation of the cost of its removal.

As I said before, I did not act according to those views, but simply as I have been in the habit of doing in every case, and my notes on every cut were more to guide me when I looked into the details.

But from what has taken place I will now ask you, before I do anything or suggest any change in the classification to my division engineers, to send me in writing, in black and white, what interpretation you yourself put on these clauses; or else come up with Mr. Woods and we will thresh the thing out to a fine point at which we can all understand where we are at and when I will know what is required of a district engineer.

Yours truly,

S. R. POULIN,
District Engineer.

EXHIBIT No. 38 (26).

OTTAWA, November 14, 1907.

MESSRS. MACDONELL & O'BRIEN,
Contractors,
Montreal, Que.

GENTLEMEN,—In accordance with instructions received from the board, I beg to hand you herewith a copy of a letter from our chief engineer, dated 30th October ulto.,

relating to the matter of the interpretation of clauses 34, 35 and 36 of the General Specifications for Construction.

Mr. Lumsden's letter speaks for itself.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (27).

OTTAWA, November 14, 1907.

Messrs. M. P. & J. T. DAVIS,
Contractors,
Quebec, P.Q.

DEAR SIRS,—In accordance with instructions received from the Board I beg to hand you herewith a copy of a letter from our chief engineer, dated 30th October ultimo., relating to the matter of the interpretation of clauses 34, 35 and 36 of the General Specifications for Construction.

Mr. Lumsden's letter speaks for itself.

Yours very truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (28).

QUEBEC, P.Q., November 15, 1907.

The Commissioners of the
Transcontinental Railway,
Ottawa, Ont.

GENTLEMEN,—We beg to acknowledge receipt of Mr. Ryan's letter of the 14th instant, enclosing copy of a letter from the chief engineer, dated 30th ultimo, relating to the interpretation of clauses 34, 35 and 36 of the General Specifications for Construction.

Looking at the matter from the practical standpoint of contractors who have to carry on their work under the terms of the specifications, it appears to us that the contentions of the chief engineer are in conflict with the meaning and interpretation of those specifications. Moreover it is contrary to the practice which has prevailed during the last eighteen months in the work done under these very specifications, and the classification which has hitherto been allowed by all the district engineers in charge of the work, is, in our opinion, the only classification which could have been given under the circumstances, and the only classification we could have accepted.

As regards the classification of solid rock in clause 34, it seems clear that the use of the word 'masses' in contradistinction to 'ledges' of solid rock can only refer to a case where the rock, instead of being continuous is found in quantities so welded or cemented together by indurated clay or other material, as to be removed practically and economically only by continuous blasting.

The classification in clause 35 of 'loose rock' excludes by its very terms the process of continuous blasting, but applies to cases where the material can be practically removed by pick, bar and shovel, although occasional blasting may be resorted to.

We further submit with confidence that when any section of cut contains such a quantity of rocks and boulders, even in soft earth, as to make ploughing impracticable, all of the material in such cut can only be classified as loose or solid rock. It surely cannot be reasonably urged that because a prior removal of the boulders would make the area in question fit for ploughing, the material should be treated as 'Common Excavation.' Upon such a theory any material might be reduced to blasting, or otherwise, to dust, and be claimed as 'Common Excavation.'

Now as regards the claim of the chief engineer that a re-classification should be made, because, as he contends, there has been an error in the classification made by his subordinates, we do not wish to be understood as contending that where errors can be rectified, the contractors are to get the benefit of the errors. But we contend that from the very nature of the thing it is physically impossible to classify except when the work is actually going on.

No adequate, or even approximate, idea can be formed of the nature of the material when the cut is completed and the sides trimmed down.

From a passage in the chief engineer's letter it seems clear that he formed his personal opinion from the appearance of the work after it was finished, and not from observations made during the progress of the work.

But, whatever view may be taken as to the practical possibility of a subsequent re-classification we submit that there has been no error, and in support of our view we beg to inclose the opinions of Messrs. Shepley, Lafleur and Ritchie, who all concur in our interpretation of the clauses in question.

We are, sirs,

Yours truly,

M. P. & J. D. DAVIS.

EXHIBIT No. 38 (29).

Under the head 'Classification' the specifications annexed to the contract between Mr. M. P. Davis and the commissioners of the Transcontinental Railway purports in four clauses, 33, 34, 35 and 36, to make certain classification of excavation under the three heads, 'Solid Rock Excavation;' 'Loose Rock,' and 'Common Excavation.' The four clauses are here set out:

'33. Grading will be commonly classified under the following heads: 'Solid Rock Excavation,' 'Loose Rock;' and 'Common Excavation.'

'Solid Rock Excavation.

'34. Solid Rock Excavation will 'include all rock found in ledges or masses of 'more than one cubic yard, which, in the judgment of the engineer, may be best 'removed by blasting.'

'Loose Rock.

'35. All large stones and boulders measuring more than one cubic foot and less 'than one cubic yard, and all loose rock whether in situ or otherwise, that may be 'removed by hand, pick or bar, all cemented gravel, indurated clay and other materials 'that cannot, in the judgment of the engineer, be ploughed with a 10-inch grading 'plough, behind a team of six good horses, properly handled; and without the necessity 'of blasting, although blasting may be occasionally resorted to, shall be classified as 'Loose Rock.'

'Common Excavation.

'36. Common excavation will include all earth, free gravel or other material of 'any character whatever not classified as solid or loose rock.'

Our instructions are that stones or boulders in sizes varying from a few cubic inches to many cubic yards have been found in masses cemented together by interposed gravel or other material, and that these masses can only be expeditiously and economically removed by blasting.

The subordinate engineers in superintendence of the progress of the work have treated the excavation of such masses as falling within the specification 'Solid Rock Excavation,' and progress estimates have been based upon that construction of the specification and paid from time to time.

The question is now raised whether this classification is correct and whether the progress estimates can, in case of its being incorrect, be now revised by the chief engi-

neer so as to involve a refund by the contractor of any excess of price paid him upon that basis.

We are of opinion, in the first place, that the specifications for excavation were intended to exhaust all description of excavation, and, therefore, that the excavation of material of the kind mentioned must be classified under one of the three heads named in the specifications.

We are also of opinion that the words 'will include' in specification 34 are intended to be equivalent to 'shall mean.' We think that all rock, whether continuous or cemented together in masses by intervening material, such as gravel or clay, if its removal is best effected by blasting, must fall within specification 34. The word 'blasting,' we think, in this specification means continuous blasting, or blasting as the main and fundamental method of removal, as contrasted with the occasional blasting spoken of in specification 35.

In our opinion, therefore, the classification made by the subordinate engineers was correct, and the progress estimates in this regard need no revision.

A more difficult question is the question whether, if this opinion be not correct, there is now the power in the chief engineer to revise the past certificates or estimates. Our instructions are that it is not possible at any time after the completion of the work of excavation to deal with its classification; that such a classification must, to be in any degree accurate, be made as the contractor is doing the work.

The language of clauses 34 and 39 of the contract give much support to the view that classification, under these circumstances, ought to be determined finally before the progress measurements are made. The work is to be measured and computed at the agreed prices and the agreed prices cannot, in the nature of things, be determined without the classification being made. It will not be necessary to deal with this question at all should our opinion on the main question be correct, but we are inclined to the view that under the circumstances which are stated above, the classification ought not to be subject to revision.

GEO. F. SHEPLEY.
E. LAFLEUR.

EXHIBIT No. 38 (30).

MONTREAL, 13th November, 1907.

M. P. DAVIS, Esq.,
Central Chambers,
Ottawa, Ont.

DEAR SIR,—In our opinion dated 9th instant we did not express our views as to the classification of loose rock made by the local engineers in District B.

We are clearly of opinion that there is no error in their interpretation of section 35 of the general specifications for the construction of the National Transcontinental Railway, Eastern Division, and that they are right in regarding as loose rock all material which in their judgment cannot be ploughed in the practical sense of the term. If for example a given area is so thickly covered with stones and boulders measuring less than one cubic yard that this area cannot 'be ploughed with a 10-inch grading plough behind a team of six good horses properly handled' then the area in question should undoubtedly come within the classification of loose rock, although the intervening material between the rocks and boulders might not be cemented gravel or indurated clay.

It appears to us to be impossable to contend that because by first removing such stones and boulders the soil might subsequently be fit for ploughing the work must be regarded as falling within section 36 dealing with common excavation. We are of opinion that a given area must be taken as it exists in order to determine the classification and not after it has been artificially treated, otherwise it might be possible to

contend that any kind of material could by artificial means be reduced to such a condition as to permit of its being ploughed.

Yours very truly,

GEO F. SHEPLEY.
E. LAFLEUR.

EXHIBIT No. 38 (31).

TORONTO, November 12, 1907.

M. P. DAVIS, Esq.,
Ottawa, Ont.

DEAR SIR,—I have carefully perused the general specifications annexed to and forming part of the contract between you and the Commissioners of the Transcontinental Railway, and in reply to the question submitted for my consideration, beg to say I am of opinion that under clause 34 of the specifications, rock found in 'masses' of more than one cubic yard, even though the individual rocks contained in the 'mass' might each measure less than one cubic yard, should be classified as 'solid rock excavation,' provided the rocks forming the constituent parts of the 'mass' are so concreted, welded or assembled together as to form a solid mass, and that such 'mass' in the judgment of the engineer could be best removed by blasting.

I think the words 'one cubic yard' in clause 34 should be construed as applying to the 'mass' and not necesarily to rocks found in and substantially forming that 'mass.'

If this clause 34 headed 'Solid Rock Excavation,' had been intended to cover only rock in ledges and rock or boulders measuring more than one cubic yard, then it would have been wholly unnecessary to insert the provisions as to 'masses.'

In my opinion the word 'masses' was inserted so as to extend to and cover cases where rock, though not solid in the strict acceptation of that term, was found in such large quantities in 'masses' over one cubic yard, as could only in the judgment of the engineer be best removed by blasting.

The view I take is, I think, strengthened by the fact that clause 35, headed 'Loose Rock,' does not extend to or cover large stones and boulders measuring one cubic yard or over, and presumably these were intended to be covered by section 34, which applies to 'solid rock excavation.'

Having regard to paragraph 39 and other paragraphs of the contract, I am inclined to think it would not be successfully contended that the engineer in case of a mistake in measurement or classification could not rectify the error wnen making up his final certificate, and that he would not be precluded by progress measurements and certificates from so doing unless indeed it should turn out to be practically impossible after the work had been completed to determine the kind and characteristics of the material in the cut, so as to be in a position to make a proper classification.

Yours truly,

G. H. RITCHIE.

EXHIBIT No. 38 (32).

QUEBEC, 16th November, 1907.

Hon. S. N. PARENT,
Chairman, Ottawa.

DEAR SIR,—I wrote you on the 28th October that Mr. Armstrong, the district engineer of the Grand Trunk Pacific Railway in District 'B,' had assured me that the difference in their classification with ours for the three estimates of July, August and September on O'Brien & Martin's work at La Tuque only amounted to 14 per cent.

Yesterday, the 15th, I had a long conversation with Mr. Armstrong on the same subject which alters the above statement. This conversation took place in the presence of my assistant, Mr. Hervey, so that there can be no misunderstanding.

In the first place, it turns out that Mr. Woods was requested by letter from Mr. Armstrong to visit the work in question last June for the purpose of inquiring into the classification which we were giving. After the work had been visited, and on our return to Quebec, Mr. Woods stated to me in the presence of Mr. Armstrong that he was not prepared to find fault with the classification though in places it seemed somewhat high. I then went over the classification of certain cuts which Mr. Woods objected to with Mr. Armstrong, and we made certain changes to meet his views. These changes, I may say, amounted to but a few hundred dollers. With these changes put into effect, Mr. Armstrong expressed himself as entirely satisfied with the classification, and on his asking Mr. Woods if he could give me a letter to this effect, the latter said he saw no reason why this should not be done. This proves that up to the end of June both of these gentlemen were entirely satisfied that the classification given was right, and that both knew or must have known that our interpretation of clause 34 of the specifications was that there should be solid rock allowed of rock in ledges and boulders measuring more than one cubic yard.

In September Mr. Armstrong again requested Mr. Woods by letter to visit the work at LaTuque, and the outcome of this visit was a letter written by Mr. Woods to our chief engineer on October 7 in which he stated that the specifications had been entirely ignored and an excessive allowance made, not by reason of error in judgment, but, as he understood, by special instructions from the assistant district engineer.

As mentioned above, both Mr. Armstrong and Mr. Woods had in my presence accepted the classification up to the end of June so that the charges made in the letter of the 7th October to our chief engineer can only apply to those estimates returned for the months of July and August, since the September estimate was not returned till after the 7th October. The charges made that the supposed over-classifications were not made 'through error in judgment nor upon decisions of the resident and division engineers, who were fully acquainted with the character of the work, but by arbitrary orders from their superior,' have been, as you know, contradicted in no uncertain measure by the division and resident engineers in question themselves.

Mr. Armstrong then made up an estimate of the difference in the percentage of solid rock returned up to the end of June and also up to the end of August, when he found, according to his calculations, that up to the end of August there was 14 per cent more rock returned than allowed up to the end of June, that is to say, taking it for granted, as Mr. Armstrong is willing to allow that our classification up to the end of June was correct, between the end of June and the end of August we would have returned 14 per cent too much solid rock, which would represent a sum arrived at as follows :—

end of June and the end of August we would have returned 14 per cent too much solid rock, which would represent a sum arrived at as follows :—

	Solid rock.	Loose rock.	
July, 1907	59,633	9,968	
August	55,600	4,234	
Totals	115,233	14,202	
	$ 1 50	$ 0 50	
	$172,849 50	$7,101 00	
			$179,950 00

14 per cent of the 115,233 cubic yards allowed in July and August would be 16,132 cubic yards. Deducting this 14 per cent from the solid rock and adding it to the loose rock we have the following result :—

Month.	Solid rock.	Loose rock.	
	115,233	14,202	
Less 14 per cent.	16,132	16,132	
Total.	99,201	30,334	
	$ 1 50	$ 0 50	
	$138,801 50	$15,167 00	
or a difference of $25,982 too much.			$153,968 50

But on going over Mr. Armstrong's figures with him yesterday we found that several errors had crept into his calculations, so that the difference in the percentage is not 14 per cent but only 3 per cent.

This would give the following :—

	Solid rock.	Loose rock.	
Cubic yards.	115,233	14,202	
Less 3 per cent (cubic yards)	3,457	3,457	
Totals.	111,776	17,659	
	$ 1 50	$ 0 50	
	$167,664 00	$8,829 50	
			$176,493 50

or an overplus of $3,457 only.

Now, Mr. Armstrong admits that the farther down you go into the cuts the harder becomes the material, so that there would be nothing astonishing even if the percentage of solid rock returned in July and August exceeded the percentage returned up to the end of June by $25,982, but in reality it is but $3,457.

Mr. Woods has requested Mr. Armstrong to reclassify the work according to his interpretation of the specifications, but Mr. Armstrong has refused to do so on the ground that the only persons capable of reclassifying were the division and resident engineers, who have all the notes in hand. I still maintain that our classification was approved by both Mr. Woods and Mr. Armstrong up to the end of June; that we have consistently followed our interpretation throughout; and that the Grand Trunk Pacific Railway are not only incapable of reclassifying the work, but that their district engineer has positively refused to even attempt to do so.

Yours very truly,

A. E. DOUCET,
District Engineer.

EXHIBIT No. 38 (33).

Taking O'Brien & Martin's entire original contract we have, which is up to 6270, up to the end of June, 1907 :

Solid rock.	Loose rock.	Common excav.	
304,047 c. yds.	88,104 c. yds.	119,164·7 c. yds.	Total, 511,319·7 c. yds.
59–4/10%	17–2/10%	23–4/10%	Money tot., $525,149.15 or $1.02—7/10

Up to end of August, 1907.

Solid rock	Loose rock.	Common excav.	
419,280 c. yds.	97,310 c. yds.	180,841·7 c. yds.	Total, 697,432·7 c. yds.
60–1/10%	13–9/10%	26%	Money. . . .$715,551.82 or $1.02–6–10

Up to end of October, 1907.

Solid rock.	Loose rock.	Common excav.	
512,988 c. yds.	98,950 c. yds.	217,934·7 c. yds.	Total, 829,872:7 c.yds.
61–8/10%	11–9/10%	26–3/10%	Money tot., $864,723.35
			or $1.04–2/10

C. L. HERVEY.

EXHIBIT No. 38 (34).

QUEBEC, P.Q., November 21, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

GENTLEMEN,—Supplementing our letter to you under date the 15th November inst., we beg to inclose herewith the opinions of Hon. Sir Alexander Lacoste, K.C., and Mr. S. Beaudin, K.C., in support of our contentions as set forth in our above mentioned letter of the 15th inst.

We are, sirs, yours truly,

M. P. & J. T. DAVIS,
per W. P. D.

EXHIBIT No. 38 (35).

MONTREAL, November 20, 1907.

M. P. DAVIS, Esq.,
Ottawa, Ont.

DEAR SIR,—Mr. Davis took a contract from the commissioners of the Transcontinental Railway for the construction of section 'B' of the said railway. Under the terms of that contract, cash payments equal to ninety per cent of the value of the work done are made to the contractors monthly on a written certificate of the engineer that the work for or on account of which the certificate is granted has been duly executed to his satisfaction, and stating the value of such work computed as mentioned, and upon approval of such certificate by the commissioners.

In October last the chief engineer was informed that the classification of excavation in the contract under the three headings, 'Solid rock excavation,' 'Loose rock excavation,' and 'Common excavation,' had been entirely ignored, and that excessive allowance was made for solid and loose rock, not by reason of an error in judgment, but by special instructions from the assistant district engineer.

A visit was made on the road by the assistant chief engineer, Mr. Woods, and Mr. Armstrong, who is an engineer of the Grand Trunk Pacific, and they confirmed the information given to the chief engineer, Mr. Lumsden. The correspondence which took place between the chief engineer and his assistants dispels the idea of fraud or of arbitrary conduct on the part of the assistant district engineer. This correspondence shows that the local engineers acted in good faith, applying the contract as they understood it, and the question seems to me reduced to this,—have the local engineers given a good and fair interpretation to the specifications, and, more particularly to the sections 33, 34, 35 and 36 under the head classification?

Mr. Doucet, district engineer, gives us the interpretation which the engineers in district 'B' have placed on the classification of solid and loose rock, and in accordance with which the progress estimates have been made since the inception of the work, as follows:—Solid rock—'All ledge rock or boulders and cemented material which in our judgment were best removed by the continual use of explosives.' Loose rock—'All detached boulders of more than one cubic foot and less than one cubic

yard, and all material, which in our judgment could not possibly be ploughed in the practical sense of the term.'

Mr. Huestis, assistant district engineer, Mr. Hervey, assistant engineer, Mr. Bourgeois, division engineer, and Mr. Allan, A. Matthews, resident engineer, give their own interpretation of the classification clauses, which corroborates that of Mr. Doucet.

In my opinion, the local engineers have well interpreted the contract. The expressions 'solid rock' and 'loose rock' have a special meaning for the purpose of the contract. Solid rock does not only include what is meant generally by that expression, but also all rock or masses of material of more than one cubic yard which may be best removed by blasting; and loose rock comprises stones and boulders measuring between one cubic foot and one cubic yard and all loose rock which can be removed by hand, pick, bar or shovel, all material that cannot be ploughed, provided it can be removed without the necessity (except occasionally) of resorting to blasting. The necessity of blasting seems to be the distinction between solid and loose rock excavation.

In my opinion, therefore, the classifications made by the local engineer are correct, and the progress estimates need no revision.

Notwithstanding clause 39 of the contract, the estimates would practically be conclusive, because the classification of the work being left to the judgment of the engineer while it is being performed, and the state of the work being radically altered when it is completed, it would be almost impossible to revise the first judgment.

However, if there has been an evident misconstruction of the contract, the estimates could be revised, but a very clear case would have to be made out, and the burden of proof would be on the commissioners.

Yours very truly,

A. LACOSTE, K.C.

EXHIBIT No. 38 (36).

MONTREAL, November 18, 1907.

M. P. DAVIS, Esq.,
Central Chambers,
Ottawa.

DEAR SIR,—I have examined the specifications annexed to the contract between you and the commissioners of the Transcontinental Railway regarding the classification provided by clauses 33, 34, 35 and 36, and I have read the opinion of Mr. Lafleur, K.C., and concur entirely in the conclusions taken by him.

It seems to me that this classification must be made at the very time the work is done, and that the chief engineer cannot revise the decision of his assistants, more particularly after payment has been made. In my opinion a court of justice would not interfere with the classification made by the subordinate engineers, unless it was alleged by the other side and affirmatively proved by them, that same was fraudulently made, and with the concurrence of the contractor.

Yours respectfully,

S. BEAUDIN.

EXHIBIT No. 38 (37).

MERCHANTS BANK BUILDING,
MONTREAL, Nov. 22, 1907.

P. E. RYAN, Esq.,
Secretary, Commissioners of the Transcontinental Ry.,
Ottawa, Ont.

DEAR SIR,—I reply to your letter to us of November 14 inclosing a copy of the letter addressed by Mr. Hugh D. Lumsden, chief engineer to the commissioners of the Transcontinental Railway, under date October 30, 1907.

We beg to inclose you herewith the opinion of our counsel, Mr. Donald Macmaster, K.C., on the proper construction of clause 34 of the general specifications for construction.

This opinion confirms our own as to the correct construction of this clause, and constitutes our answer to your letter and Mr. Lumsden's views.

Yours truly,
MACDONELL & O'BRIEN.

EXHIBIT No. 38 (38).

IN THE MATTER OF

The contract for the construction of the National Transcontinental Railway, Eastern Division,

and

The specifications attached thereto.

The opinion of counsel is asked as to what constitutes 'solid rock excavation' within the meaning of the specifications and the contract. The matter of classification is regulated by three clauses in the contract, which, with the respective headings, are as follows :—

'CLASSIFICATION.

'33. Grading will be commonly classified under the following heads:—'Solid rock excavation,' 'Loose rock' and 'Common excavation.'

'SOLID ROCK EXCAVATION.

'34. Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.

'LOOSE ROCK.

'35. All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials, that cannot, in the judgment of the engineer, be ploughed with a 10-inch grading plough, behind a team of six good horses, properly handled; and without the necessity of blasting, although blasting may be occasionally resorted to, shall be classified as "loose rock."

'COMMON EXCAVATION.

'36. Common excavation will include all earth, free gravel or other material of any character whatever not classified as solid or loose rock.

APPENDIX No. 5

'Solid rock excavation' is defined by section 34. Very little doubt can exist as to what is included in the contract under the description 'rock found in ledges.' But what is the meaning of 'masses of more than one cubic yard'? Whatever it means it must be regarded as 'solid rock excavation' whenever in the judgment of the engineer it may be best removed by blasting. Does the expression 'masses of more than one cubic yard,' mean a stone or boulder of more than one cubic yard? Evidently not so, because if that had been the intention, it would have been easy to have so stated, and the draughtsman had the language at hand to so state if such were his intention, for we find in section 35 describing 'loose rock' an express reference to 'large stones and boulders measuring more than one cubic foot and less than one cubic yard.' It would have been equally easy for the draughtsman in section 34 instead of the language used, to have said 'solid rock excavation will include all rock found in ledges and all large stones and boulders measuring more than one cubic yard,' but the draughtsman has not so stated, and these words cannot be read into the specifications. But the very fact that such language has not been used to describe solid rock shows that another interpretation must be given to the words 'solid rock excavation,' and that 'masses of more than one cubic yard' may include other material than rock and rock of less size than one cubic yard whenever the material lying in the masses of the size stated may in the opinion of the engineer be best removed by blasting. If it was the intention that solid rock alone should fall within the classification of 'solid rock excavation,' there was no necessity for using any other description of this classification than 'solid rock.'

'Loose rock' is not described as 'loose rock excavation,' but as 'loose rock.' If 'solid rock excavation' was intended to be solid rock and nothing else it would have been described as 'solid rock'—simply. This view is confirmed by section 33 of the specification in which it is provided under the heading 'classification' :—

'Grading will be commonly classified under the following heads: 'Solid rock *excavation,*' 'Loose rock,' and 'Common excavation.'

Here, though 'Loose rock' is described as such simply, the other two classifications have appended the word 'excavation.'

I am not concerned for the moment with 'common excavation,' but the fact that we have 'solid rock excavation' is antithesis with 'loose rock' simply (without the appended 'excavation') shows that solid rock excavation must include something more than 'solid rock' simply, and *that something* obviously is a mass of material of more than one cubic yard, which in the judgment of the engineer may best be removed by blasting. I have no doubt whatever that this is the proper interpretation of 'solid rock excavation' under this contract, and that the courts if appealed to will so determine.

DONALD MACMASTER.

MONTREAL, October 31, 1907.

EXHIBIT No. 38 (39).

OTTAWA, November 23, 1907.

SIR,—I have the honour by direction of the board to hand you herewith the correspondence relating to a complaint made to our chief engineer by the assistant chief engineer of the Grand Trunk Pacific Railway with respect to the classification under our specifications for construction in district 'B.'

As the correspondence will show, the complaint of the Grand Trunk Pacific engineer has resulted in revealing for the first time since construction started this difference between the chief engineer of the commissioners and his staff with respect to the interpretation of the clauses of the contract relating to classification.

Paragraph 7 of the agreement, being the schedule to the National Transcontinental Railway Act, 3 Edward VII., provides that in case the chief engineer of the

company and our chief engineer differ as to the work, the differences in dispute shall be determined by arbitration. This, however, is not a case of difference between the chief engineer of the company and the chief engineer of the commissioners, but is, rather, a difference between Mr. Lumsden and his staff, as indicated in the documents annexed hereto.

Although the complaint of the Grand Trunk Pacific engineer specifically relates to certain cuttings on McDonnell and O'Brien's contract, the whole work will be affected by the interpretation of paragraph 34 of the specifications. Accordingly, both our contractors in district 'B' have been officially notified of the interpretation placed by our chief engineer upon paragraph 34 of the specifications, and their replies contesting the interpretation of our chief engineer are included in the correspondence which accompany this letter.

The commissioners' interpretation of paragraph 34 of the General Specifications for Construction agree with that of the district engineers for districts 'B,' 'C' and 'F,' and, ordinarily, they would have so ruled; but Mr. Lumsden, as an appointee of the government, has requested that the government give their ruling as to the interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction, and the commissioners herewith submit the whole matter for such ruling.

According to the report of District Engineer Doucet, dated the 16th instant (copy attached), the amount involved in the complaint of the engineer of the Grand Trunk Pacific Railway is only $3,547 for the months of July and August last, i.e., if the interpretation of our chief engineer is correct, all preceding estimates having been approved by him without objection. On the interpretation placed on clauses 33, 34, 35 and 36 of the specifications much larger amounts will be involved for the future, however, and as the chief engineer of the commissioners has refused to approve further estimates of the contractors until the ruling of the government as to the interpretation to be placed upon these clauses of the specifications has been received, the commissioners respectfully request that this ruling be given at the earliest possible day.

I have the honour to be, sir,
Your obedient servant,

P. E. RYAN,
Secretary.

Hon. GEO. P. GRAHAM, P.C.,
Minister of Railways and Canals,
Ottawa.

EXHIBIT No. 38 (40).

TORONTO, November 27, 1907.

P. E. RYAN, Esq.,
Secretary, Board of Commissioners of Transcontinental Railway,
Ottawa.

SIR,—We have obtained the opinion of Mr .Wallace Nesbitt, K.C., on the interpretation of clauses 34, 35 and 36 of the specifications, and will forward same to you by to-morrow's mail, and have the honour to remain,

Your obedient servants,

AYLESWORTH, WRIGHT, MOSS & THOMPSON.

APPENDIX No. 5

EXHIBIT No. 38 (41).

(C. P. R. Telegram.)

TORONTO, ONT., November 28, 1907.

To P. E. RYAN,
Secretary, Railway Commission,
Ottawa.

Other opinion goes forward to-night.

M. J. O'BRIEN.

EXHIBIT No. 38 (42)

OTTAWA, December 2, 1907.

SIR,—I have the honour, by direction of the Board, to hand you, which I do herewith, a letter from Mr. Wallace Nesbitt, K.C., addressed to Messrs. Macdonald & O'Brien, and submitted on their behalf to the commissioners, containing Mr. Nesbitt's opinion as to the construction to be placed upon the language used in the specifications with respect to the classification of material; and I am to request that you will have this letter placed on the file which accompanied my letter to you of the 23rd ultimo and considered therewith.

I have the honour to be, sir,
Your obedient servant,
P. E. RYAN.
Secretary.

Hon. GEO. P. GRAHAM, P.C.,
Minister of Railways and Canals,
Ottawa.

EXHIBIT No. 38 (43).

TORONTO, November 28, 1907.

P. E. RYAN, Esq.,
Secretary of the Board of Commissioners of the Transcontinental Ry.,
Ottawa, Ont.

SIR,—*Re* contract for the construction of the Transcontinental Railway (Eastern Division) and specifications attached thereto.

We have the honour to inclose you herewith the opinion of Mr. Wallace Nesbitt, K.C., as to the construction to be placed upon the language used in the above specifications in the classification of material. Kindly acknowledge.

We have the honour to remain, sir,
Your obedient servant,
AYLESWORTH, WRIGHT, MOSS & THOMPSON.

EXHIBIT No. 38 (44)

TORONTO, Nov. 26, 1907.

Messrs. Macdonell & O'Brien,
Montreal, P.Q.

DEAR SIRS,—*Re* contract for the construction of the Transcontinental Railway (Eastern Division) and specifications attached thereto.

I am asked for my opinion as to the construction to be placed upon the language used in the specifications in the classification of material.

The classification is dealt with in four clauses, which are as follows :—

CLASSIFICATION.

33. Grading will be commonly classified under the following heads :—'Solid rock excavation,' 'loose rock,' and 'common excavation.'

SOLID ROCK EXCAVATION.

34. Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard which in the judgment of the engineer may be best removed by blasting.

LOOSE ROCK.

35. All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock whether in situ or otherwise, and that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials that cannot in the judgment of the engineer be ploughed with a ten-inch grading plough behind a team of six good horses, properly handled; and without the necessity of blasting, although the blasting may be occasionally resorted to, shall be classified as 'loose rock.'

COMMON EXCAVATION.

36. Common excavation will include all earth, free gravel, or other material of any character whatever not classified as solid or loose rock.

These clauses purport to cover all material to be excavated to comply with the preformance covenanted for by the contractor in the 4th clause, and are intended to embrace all classes of material, and, therefore, in order to cover same, an artificial meaning has necessarily been given to each of the generic expressions 'solid rock,' 'loose rock,' and 'common excavation,' usually called 'earth.' The type of case where the classification has not been exhaustive and where unexpected and undefined material has been met with such as 'gumbo,' and where the engineer has usually given what he has considered a fair sum for the doing of the work, has no application here. I think the engineer must classify under some one of the three heads all the material met with.

I understand that a class of material has been met with where stones and boulders varying in size are found in masses cemented together by forming a conglomerate, and that these masses must in a commercial sense be removed by blasting, and are in fact more difficult to deal with than solid rock.

The question is whether such a class of material falls under the head of 'loose rock' as indicated in Mr. Lumsden's letter to the commissioners, which I have before me, or whether it should be classified as 'solid rock,' as has been done by the engineers in charge of the work.

In clause 35, where 'loose rock' is defined, I think that where the material is capable of being ploughed up by six horses, properly handled, when attached to a ten-inch plough, the intention is to treat such material as 'common excavation'; that where cemented gravel, indurated clay and other materials require occasional blasting to assist the operation of the pick, &c., they are 'loose rock,' but that reading 34 and 35 together and harmonizing the two, where you find a material where 'masses of more than one cubic yard which in the judgment of the engineer can best be removed by blasting' are met with, such material falls within clause 34, and should be classified as 'solid rock.' The material is something that is not in express language described in either clauses 34 or 35, and it might be urged, as has been in many cases, that it came under the head of 'common excavation,' on the ground that anything that was not classified expressly as 'solid rock' or 'loose rock' was covered by the classification of 'common excavation.' Such a construction I think would be strained and revolting to common sense, and, therefore, I think that such material must, as I have said, come within either 'solid rock' or 'loose rock' classification. In my opinion it is properly classified under the head of 'solid rock,' as I think the words of section

34 make it plain that 'solid rock' alone is not meant, but that 'solid rock' it is stated 'will include,' &c., and the use of the words 'will include' indicate that it is not 'solid rock' as such that is to be solely classified as 'solid rock.' I think the words, 'masses of more than one cubic yard which in the judgment of the engineer can be best removed by blasting,' mean 'aggregations of conglomerate material forming a coherent whole,' 'bodies of concrete material,' 'lumps of more than one cubic yard which in the judgment of the engineer may be best removed by blasting.'

I think that when such a coherent mass is met with such mass has been by convention of the parties defined as falling under the description of 'solid rock excavation.' Mr. Lumsden has apparently thought that 'solid rock excavation' means solid rock in its proper sense, whereas in my view the parties have agreed that it shall cover material requiring not occasional but practically continuous blasting where the same is necessary in the common sense commercial handling of the material, upon which classification the engineer on the ground watching the operations is surely best qualified to form an opinion.

To sum up and paraphrase, 'solid rock excavation' covers in addition to solid rock proper, material in mass which requires blasting and where occasional blasting will not suffice.

The matter may also, perhaps, be put in another way and one leading to the same result. Is the material here in question not in fact 'rock' within the strict meaning of clause 34? 'Rock,' it must be remembered, is a term of technical significance in the business of railway construction. The word is not used from the point of view of the geologist or of the quarryman, but from that of the excavator. What is 'rock' regarded from that point of view? An indication lies on the face of the clauses under discussion. 'Solid rock' is best removed by blasting. 'Loose rock' may be removed by hand, pick or bar. Cemented gravel, &c., included under 'loose rock' cannot be ploughed without blasting. Do not these provisions indicate that the *fundamental basis* of the classification lies in the means necessary for the removal of the material? Does not the term 'solid rock' then include material of the character here in question, which cannot be removed without blasting? In my opinion it does. The material may not be 'rock' in the sense in which the word is used by the geologist or the quarryman, but it is 'rock' in the sense in which the word is used by railway contractors and engineers. To illustrate: a stone the size of a man's head is a solid rock, but because it can be handled in a certain way it is 'loose rock.' A piece of indurated clay is not 'rock,' but because it can be handled in a certain way it is called 'loose rock.' And so a mass which can only be handled by blasting is called 'solid rock' just as actual rock found in a ledge is called 'solid rock.'

Yours truly,

WALLACE NESBITT, K.C.

EXHIBIT No. 38 (45).

OTTAWA, December 5, 1907.

SIR,—In reply to your letter of the 23rd ultimo, with which you transfer certain reports of the chief engineer of the commission bearing upon the classification of the work under the charge of the commissioners.

It would seem that under chapter 71, section 9, 3-Edward VII., the construction of the eastern division is to be under the charge and control of three commissioners; subsequently amended by chapter 24, section 11, 4-Edward VII., making four commissioners, who are constituted a body corporate, with full powers to carry on the work in connection with the construction of the eastern division of the National Transcontinental Railway.

Section 10 of chapter 71 gives the authority for the appointment of a chief engineer, who, under instructions from the commissioners, and subject to the provisions

of the agreement, shall have general superintendence of the construction of the Eastern Division.

It therefore seems to me that full power has been vested in the commissioners and their chief engineer to carry on the work in such a way as to them seems best; and, under the specifications and form of contract, which has already received the approval of the government, the duties of the chief engineer are fully set forth. I can only therefore, refer back to your commission the whole of the papers bearing upon the question, with the request that you should take such action as seems to you necessary under the circumstances.

Yours faithfully,

GEORGE P. GRAHAM,
Minister of Railways and Canals.

Hon. S. N. PARENT,
Chairman Transcontinental Railway,
Ottawa, Ont.

EXHIBIT No. 38 (46).

OTTAWA, December 6, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—By direction of the Board, I beg to hand you herewith copy of the file with respect to the question of classification under the general specifications for construction.

The matter will be dealt with on the return of the chairman, who is at present absent on account of illness. In the meantime, this copy of the correspondence is sent you for consideration.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (47).

OTTAWA, December 16, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—I beg to submit the following as my interpretation of clauses 34, 35 and 36 of the General Specifications :—

CLAUSE 34—SOLID ROCK EXCAVATION.

'Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.'

I am of the opinion that rock found in ledges or masses as specified must (firstly) be rock, and (secondly) it must be in ledges, conglomerate form (known as plum-pudding stone), boulders, or ledge rock displaced (in pieces each exceeding one cubic yard in size), rock assembled (the individual pieces of such assembled rock exceeding one cubic foot in size), also shale rock, such as in the judgment of the engineer may be best removed by blasting.

I attach a diagram in explanation of the above, which in my opinion is all that is included under clause 34—solid rock.

APPENDIX No. 5

CLAUSE 35—LOOSE ROCK.

'All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials that cannot in the judgment of the engineer, be ploughed with a ten-inch grading plough, behind a team of six good horses properly handled; and without the necessity of blasting, although blasting may be occasionally resorted to, shall be classified as loose rock.'

Under this heading I would include:

(1) All large stones and boulders more than one cubic foot and less than one cubic yard not covered under clause 34.

(2) All loose rock in situ or otherwise that may be removed by hand, pick or bar, and not covered under clause 34.

(3) All cemented gravel, indurated clay, and other materials that cannot, in the judgment of the engineer, be ploughed with a ten-inch grading plow behind a team of six good horses properly handled; and without the necessity of blasting, although blasting may be occasionally resorted to.

Clause 36.—Common Excavation.

'Common excavation will include all earth, free gravel or other material of any character whatever not classified as solid or loose rock.'

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

P.S.—This interpretation was made by me after consulting with Mr. Collingwood Schreiber, consulting engineer to the government. I would be pleased to know the opinion of the Minister of Justice on the legal aspect.

HUGH D. LUMSDEN.

EXHIBIT No. 38 (48).

OTTAWA, December 16, 1907.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—In regard to the November estimates which are now coming in, and in view of my letter of the 11th ultimo, since there have been further unexpected delays in determining the questions therein referred to, I beg to say that pending adjustment, the holding back of the November estimates at this date might prove a serious matter to the contractors, I will at your request approve of the November estimates on the distinct understanding that my approval of same, or of any previous estimates of a similar character, shall not prejudice the reconsideration and necessary correction of the classification and consequently the amount estimated therefor.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (49).

OTTAWA, December 17, 1907.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—I beg to advise you that the recommendation contained in your letter of the 16th inst. with respect to the November estimates has to-day been approved by the board.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (50).

OTTAWA, December 20, 1907.

The Hon. A. B. AYLESWORTH, P.C.,
Minister of Justice,
Ottawa.

SIR,—I have the honour, by the direction of the Board, to submit to you herewith all correspondence relating to a complaint made to our chief engineer by the assistant chief engineer of the Grand Trunk Pacific Railway with respect to the classification under our specifications for construction in District 'B,' and to the interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction.

You will note that :

(*a*) The complaint of the Grand Trunk Pacific engineer referred to is contained in a letter of Mr. H. A. Woods, assistant chief engineer of the Grand Trunk Pacific Railway, dated October 7 last, and addressed to our chief engineer ;

(*b*) The engineers of the Grand Trunk Pacific Company and of the commission, and the representatives of the contractors in District 'B,' met in Quebec on the morning of the 24th of October, and proceeded to La Tuque, for the purpose of investigating on the ground the complaint of the assistant chief engineer of the Grand Trunk Pacific Railway with respect to classification.

(*c*) The chief engineer reported to the commissioners under date of October 30, the result of the said investigation held on the ground; stated his interpretation of clauses 34 and 35 of the specifications, and submitted the interpretation of the district engineer of District 'B,' and his assistants, indicating a disagreement between the chief engineer and his staff with respect to the interpretation of the clauses of the specifications relating to classification.

(*d*) Under date November 13, the chief engineer submitted to the commissioners the interpretation of District Engineers Dunn, Molesworth and Poulin of clauses 34, 35 and 36 of the general specifications for construction ;

(*e*) Under date, November 14, the commissioners submitted to the contractors in District 'B' a copy of a letter of the chief engineer, dated October 30 ultimo in which he (the chief engineer) stated his interpretation of the clauses of the contract relating to classification ;

(*f*) The contractors submitted legal opinions contesting the chief engineer's interpretation of the clauses of the specifications relating to classification;

(*g*) Under date November 23 ultimo the commissioners submitted to the government, in compliance with the request of the chief engineer, all the correspondence relating to this matter, for a ruling as to the interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction ;

(*h*) The Hon. Minister of Railways and Canals wrote to the chairman of the commissioners under date of December 5 referring back to the commissioners all the

papers bearing upon the question, with an expression of opinion that full power has been vested in the commissioners and their chief engineer to carry on the work in such a way as to them seems best, and the request that such action should be taken as to them seems necessary under the circumstances.

(*i*) A copy of all the correspondence was submitted to the chief engineer of the commissioner under date, December 6 instant, for his consideration ;

(*j*) The chief engineer reported to the commissioners under date, December 16 instant, submitting a modified interpretation of clauses 34, 35 and 36 of the general specifications for construction, and stating that he would be pleased to know the opinion of the Minister of Justice on the legal aspect.

The commissioners accordingly herewith submit all the correspondence with respect to this matter, and request that you will favour them with your interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction, a copy of which accompanies this letter, at the earliest possible day.

I have the honour to be, sir,
Your obedient servant,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (51).

OTTAWA, January 8, 1908.

HUGH D. LUMSDEN, ESQ.,
Chief Engineer.

DEAR SIR,—By direction of the Board, I have the honour to hand you herewith a copy of a letter from the Deputy Minister of Justice, dated the 6th instant, with respect to the interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT No. 38 (52).

OTTAWA, January 6, 1908.

The Secretary to the Commissioners,
National Transcontinental Railway,
Ottawa.

SIR,—Referring to your letter of the 20th ultimo, with which you submit correspondence with regard to the classifications of excavated material and the interpretation of clauses 33, 34, 35 and 36 of the general specifications for construction of the Eastern Division of the National Transcontinental Railway, I have the honour to state that upon consideration of the papers submitted I see no reason to differ from the classification stated by the chief engineer in his letter to the commissioners of the 16th ultimo, except as to the statement that 'rock assembled (the individual pieces of such assembled rock exceeding *one cubic foot* in size) . . . such as in the judgment of the engineer may be the best removed by blasting,' is to be classified as solid rock excavation under clause 34. I do not understand upon what principle the chief engineer limits the size to pieces exceeding one cubic foot. The specification speaks of rock found in ledges or masses of more than *one cubic yard* which in the judgment of the engineer may be best removed by blasting. If 'rock assembled' may be regarded as a mass of rock, and if it may be best removed by blasting, I do not see why under the specification it is material whether the individual pieces exceed or are less than one cubic foot in size, and if 'rock assembled' is not regarded as a mass,

the minimum limit of size which can be classified as solid rock exceeds one cubic yard.

It seems to me, however, that these questions are largely engineering questions, the solution of which depends principally upon the judgment of the engineer, having regard to the terms used in the specifications.

I must call your attention to clause 15 of the contract, which provides that the engineer (this term to be construed as defined in clause 2 of the contract) shall be the sole judge of work and material, and that his decision on all questions in dispute with regard to work and material shall be final, thus expressly stipulating that such questions as these shall be submitted to the decision of the chief engineer.

I wish to add that it is very difficult for me to advise generally upon the interpretation of these specifications, and a general ruling may not infrequently overlook the peculiar facts and circumstances of an individual case which if stated might lead to an exception or modification. I would prefer to advise upon any special case as it may arise, having all the particulars and circumstances stated.

Papers returned herewith.

I have the honour to be, sir,
Your obedient servant,

E. L. NEWCOMBE,
Deputy Minister of Justice.

EXHIBIT No. 38 (53).

OTTAWA, January 9, 1908.

The Commissioners of the Transcontinental Railway,
Ottawa, Ont.

SIRS,—I have to-day been handed by the secretary a copy of a letter from the Deputy Minister of Justice, dated the 6th instant, with respect to my interpretation of clauses 33, 34, 35 and 36 of our general specifications. After fully considering his remarks in regard to the words after 'rock assembled' (the individual pieces of such assembled rock exceeding one cubic foot in size), I have concluded in deference to his remarks these bracketed words might be omitted, as also the words 'not covered under clause 34' in items 1 and 2 under the heading 'loose rock.'

My interpretation of these clauses will now be as follows:—

Clause 34—Solid Rock Excavation.

'Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which in the judgment of the engineer may be best removed by blasting.'

I am of the opinion that rock found in ledges or masses as specified must (firstly) be rock, and (secondly) it must be in ledges, conglomerate form (known as plum pudding stone), boulders or ledge rock displaced (in pieces each exceeding one cubic yard in size), rock assembled, also shale rock, such as in the judgment of the engineer may be best removed by blasting.

I attach a diagram in explanation of the above, which in my opinion is all that is included under clause 34—solid rock.

CLAUSE 35—LOOSE ROCK.

'All large stones and boulders measuring more than one cubic foot and less than one cubic yard, and all loose rock, whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay or other materials that cannot in the judgment of the engineer be ploughed with a ten-inch grading plough behind a team of six good horses properly handled, and without the necessity of blast-

ing, although blasting may be occasionally resorted to, shall be classified as "loose rock".'

Under this heading I would include :

(1) All large stones and boulders more than one cubic foot and less than one cubic yard.

(2) All loose rock in situ or otherwise that may be removed by hand-pick or bar.

(3) All cemented gravel, indurated clay and other materials that cannot, in the judgment of the engineer, be ploughed with a ten-inch grading plough, behind a team of six good horses properly handled and without the necessity of blasting, although blasting may be occasionally resorted to.

CLAUSE 36—COMMON EXCAVATION.

'Common excavation will include all earth, free gravel or other material of any character whatever, not classified as solid or loose rock.'

This interpretation was made by me after consulting with Mr. Collingwood Schreiber, Consulting Engineer to the government.

Your obedient servant,

HUGH D. LUMSDEN,
Chief Engineer.

EXHIBIT No. 38 (54).

NATIONAL TRANSCONTINENTAL RAILWAY

SOLID ROCK EXCAVATION

Rock in Ledges

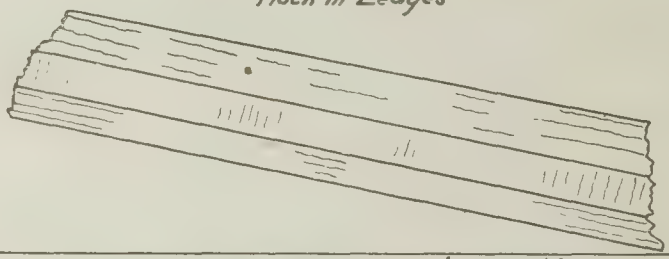
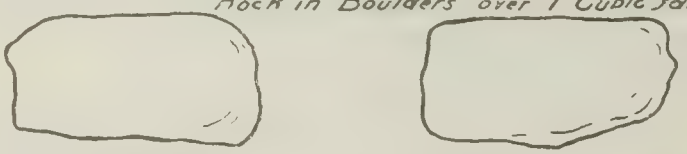


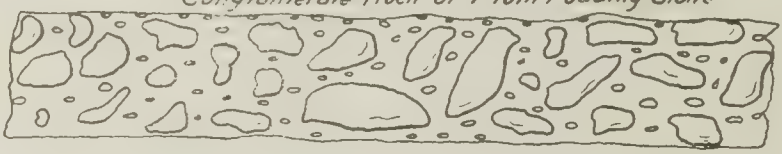
Diagram No 1

Rock in Boulders over 1 Cubic Yard



No 2

Conglomerate Rock or Plum Pudding Stone



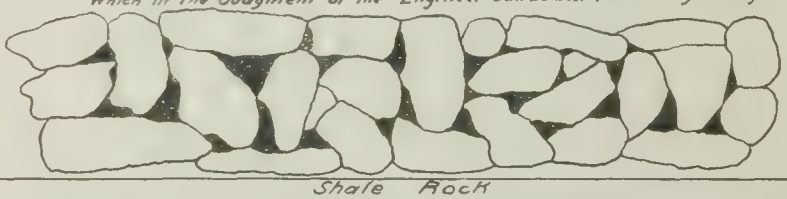
No 3

Detached Ledge Rock in Mass over 1 Cubic Yard



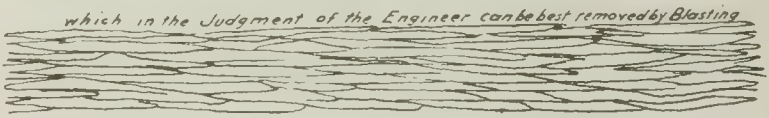
No 4

Rock in Masses of over 1 Cubic Yard (Assembled Rock)
which in the Judgment of the Engineer can be best removed by Blasting



No 5

Shale Rock
which in the Judgment of the Engineer can be best removed by Blasting



No 6

No 1. Is a mere matter of Measurement by the Engineer

No 2. Is a mere matter of measurement by Rock Measurers

No 3. Is a mere matter of measurement by the Engineers

No 4. Is a mere matter of measurement by Rock Measurers

Nos 5 & 6 To form a judgment as to whether or not it is best removed by Blasting, the Chief Engineer must view the work in progress or leave it to be decided by the Engineer in charge, whose duty it is to frequently visit the work during its operation and be governed thereby & act accordingly

Stephen D. Lesueur, Chief Engineer
Ottawa ~~Dec 17 07~~
Jan 10/08

APPENDIX No. 5

EXHIBIT No. 38 (55).

OTTAWA, January 14, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer.

DEAR SIR,—I beg to advise you that your letter of the 9th instant giving your interpretation of clauses 33, 34, 35 and 36, of the general specifications for construction, modified so as to conform with the opinion expressed by the Deputy Minister of Justice, was considered by the Board on the 10th instant and approved.

Yours truly,

P. E. RYAN,
Secretary.

EXHIBIT 38 (56).

No. 7787. OTTAWA, January 30, 1908.

A. E. DOUCET, Esq.,
District Engineer,
Quebec.

DEAR SIR,—In regard to my letter to you of the 14th inst., I beg to substitute the accompanying letter, as I have taken into consideration that some instances may be met with where actual measurements are impracticable, but it must be understood that actual measurements (a record of which are kept, either by cross-sections or by measurements) must be made as a rule of all work, and if at any time you find it necessary to put on an extra man for this purpose you can do so.

Yours truly,

HUGH D. LUMSDEN.

EXHIBIT No. 38 (57).

OTTAWA, January 30, 1908.

A. E. DOUCET, Esq.,
District Engineer,
Quebec.

DEAR SIR,—Herewith please find copy of my interpretation of clauses 34, 35 and 36 of our general specifications, together with a blue print diagram in explanation of same. These after having been submitted to the Justice Department, have been approved by the commissioners.

You will please at once go over these carefully, and say whether the classification in your district conforms to such interpretation. If it does not, steps must at once be taken by you to have your division and resident engineers, who are personally acquainted with the work, take up the matter, and as far as now practicable, have an estimate prepared showing the difference such classification would make with that which has heretofore been used by you. In future all classification must be in conformity with my interpretation. Measurements must be made and full notes kept showing such classification on cross sections where rock or other classified material is met with in large quantities, or by measurements made by an assistant, of rock or loose rock in boulders. In short, actual measurements shall be made of all classified material returned, and not by percentages, except in cases where measurements are impracticable in the judgment of the engineer in charge.

Yours truly,

HUGH D. LUMSDEN.

EXHIBIT No. 38 (58).

No. 473.

QUEBEC, February 1, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer, Ottawa.

DEAR SIR,—I beg to acknowledge receipt of your letter of January 30, file 7787, and to say that the instructions contained therein will be sent out immediately to all the division and resident engineers.

I will personally explain the instructions to the division engineers when they bring in their estimates for January to my office.

Yours very truly,

A. E. DOUCET.
District Engineer.

EXHIBIT No. 38 (59).

No. 7787.

OTTAWA, February 19, 1908.

A. E. DOUCET, Esq.,
District Engineer, Quebec.

DEAR SIR,—I find that I have no reply from you in regard to clause 2 of my letter to you of the 30th of January *re* interpretation clauses 34, 35 and 36 of our general specifications, and as I have had replies from the other district engineers, I should also like to have one from you.

Yours truly,

HUGH D. LUMSDEN.

EXHIBIT No. 38 (60).

No. 886.

QUEBEC, February 20, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer, Ottawa.

DEAR SIR,—In answer to yours of February 19, file 7787: I wrote you on the first of February acknowledging your letter of January 30, file 7787, saying that the instructions contained therein would be sent out immediately to all division and resident engineers, and that I would personally explain the instructions to the division engineers when they brought in their estimates for January to my office. Since that time I have issued a circular quoting your letter of January 30 to the engineers.

I may add that the classification in my district conforms to your interpretation as discussed and understood by us at the meeting of the district engineers with you and the commissioners at Ottawa in February.

Yours truly,

A. E. DOUCET,
District Engineer.

APPENDIX No. 5

EXHIBIT No. 38 (61).

No. 7787.

OTTAWA, March 14th, 1908.

A. E. DOUCET,
District Engineer,
Quebec.

DEAR SIR,—*Re* your letter of the 20th ultimo, in reply to mine of the 19th. Am I to understand by the last clause in it that the classification in your district prior to the 30th January, conformed to my interpretation of clauses 34, 35 and 36 of our general specifications? (See clause 2 of mine of 30th January.)

Yours truly,

HUGH D. LUMSDEN.

EXHIBIT 38 (62).

No. 1350.

QUEBEC, 20th March, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer,
Ottawa.

DEAR SIR,—Replying to your letter of the 14th instant, file 7787, I thought I had made it quite clear that the classification in my district prior to the 30th January, 1908, conformed to your interpretation of clauses 34, 35 and 36 of our general specifications as embodied in your communication to the district engineers under date of January 30th, I have to reiterate my acknowledgement of your interpretation of clauses 34, 35 and 36 of this date and to say that the classification throughout my district prior to January, 1908, is strictly in accordance with such interpretation.

Yours very truly,

A. E. DOUCET,
District Engineer.

TUESDAY, June 16, 1908, 8.30 p.m.

The committee resumed.

Mr. MURPHY.—Mr. Chairman, after the statements made by Major Hodgins to-day and the intimation these statements contain that he abandons any charges of fraud or wrong doing against the commissioners and their engineers I propose at this stage to suspend his further cross-examination. The Major has pointed out that the only matters in issue are differences of opinion between engineers. Now there is a tribunal appointed under the authority of parliament, a board of arbitrators, to adjust such differences of opinion; and the Major has gone the length of saying that *in his view* this is the proper tribunal to settle these legitimate differences of opinion between the different engineers. In view of the position taken by the Major, I submit that no useful purpose can be served by proceeding further with this inquiry unless some other person is prepared to assume responsibility for alleging fraud or wrong-doing against the commission or their staff of engineers. If any person is prepared to take that responsibility and make such a charge we are, of course, prepared to meet them.

The CHAIRMAN.—You propose to suspend——

Mr. MURPHY.—Just now the further cross-examination on this witness. I cannot just now state the length of time.

Mr. MACDONALD.—I presume you mean if no further evidence is offered, your cross-examination is over?

Mr. MURPHY.—Subject to that.

Mr. BARKER.—Mr. Murphy has mentioned a board of arbitration. Is there any evidence that such a board is in existence?

Mr. MACDONALD.—The evidence of the statute.

Mr. BARKER.—He says there is a board of arbitration.

Mr. MURPHY.—And the witness stated, Mr. Chairman, that two engineers, who are members of that board, were at the time he made that statement actually engaged in going over the work.

Mr. BARKER.—Two engineers were going over the work? But if there is a board of arbitration we must have some evidence of it in any case.

Mr. MURPHY.—That is in the Act.

The CHAIRMAN.—That is in the statute.

Mr. BARKER.—That only authorizes the appointment of a board. Is there a board of arbitration?

Mr. MACDONALD.—Not only the appointment of a board, but states who the board shall be.

Mr. CARVELL.—Constitutes the board.

Mr. BARKER.—I do not suppose there can be a board of arbitration unless some appointments are made?

Mr. LENNOX.—With reference to the position taken by Mr. Murphy, it is different from the position he took before we adjourned at five o'clock.

Mr. MURPHY.—I do not wish to interrupt, but I did not take any position before we adjourned.

Mr. LENNOX.—It was understood you were about to proceed with the cross-examination of Major Hodgins.

Mr. MACDONALD.—I did not so understand it.

Mr. MURPHY.—I never said a word to that effect.

Mr. LENNOX.—Mr. Murphy was proceeding with the cross-examination, and the re-examination will, of course, follow after the cross-examination is concluded. Now, I have intimated as clearly as I can that I do not consider that the investigation is concluded, or is in any way impeded by the statements which Major Hodgins made this afternoon. Whether he fully appreciated the answers he gave to Mr. Macdonald or not I do not know. At all events, as I stated at the beginning of the inquiry and repeated on several occasions, and I think Mr. Barker as well, we regard the reference to us as not at all controlled by the circumstance that Major Hodgins wrote a letter. We regard the reference as being upon the substantial and broad question as to whether as a matter of fact, there was an improper classification of the work that was done upon the Transcontinental Railway line—not confined either to section 'B' or section 'F,' but to the whole Transcontinental line. It is true that part of the charges were contained in Major Hodgins' letter, but the charges having been initiated by Major Hodgins sending a letter to the press were reiterated and enlarged by the press; and when the Chief Commissioner of the Transcontinental Railway Commission communicated with Sir Wilfrid Laurier, he saw fit to attach to his letter statements made by the 'Colonist,' the Ottawa 'Citizen' and I think other newspapers, all of which statements are set out here in the reference we have before us. Now, when the First Minister asked the House to direct an investigation it was not merely an investigation confined to the charges made by Major Hodgins, but an investigation of all the matters that are contained in the various papers that were attached to the letter of the chief commissioner. As a matter of fact, he did not ask for an investigation of Major Hodgins' letter at all in the first instance——

Mr. MACDONALD.—Oh, yes, he did.

Mr. LENNOX.—The document is on record.

Mr. MACDONALD.—And it speaks for itself.

Mr. LENNOX.—Mr. Macdonald will recognize what I say is correct when I call his attention to it. When Sir Wilfrid Laurier read what he proposed to submit in the first instance, as I recollect—and I have pretty good reason to recollect it, because Mr. Barker and I framed what we desired to have by way of amendment—it was in this form : 'That the memorandum of the Chairman of the Transcontinental Railway Commissioners, dated 23rd April and laid on the table of the House on the 24th instant, and the papers accompanying the same, be referred to a special committee of five members, with instructions to investigate,' etc. Then it was suggested that probably that was not broad enough, and it stood over for a day and it was submitted to Mr. Barker and myself.

Mr. MACDONALD.—May I suggest that this may be very interesting, but it is entirely beyond the knowledge of any other members of the committee but Mr. Barker and Lennox?

Mr. LENNOX.—My honourable friend will ascertain it is a fact, and we got the letter of Major Hodgins incorporated. At all events, aside altogether from that, we have to consider the reference as we have it now before the committee, and the reference is that the memorandum of the Chairman of the Transcontinental Railway Commissioners to the Prime Minister, of date 23rd April and laid on the table of the House, and so forth, and the papers accompanying the same, together with the letter of Major Hodgins to the public press, be referred to a special committee of five members, with instructions to investigate the matters and charges therein contained, such committee to consist of, and so forth. So there is no prominence given to one matter above another in that reference; it is to investigate the charges contained in the several documents referred to. As I say, thy contain all these various things, and in those charges is a specific statement of wrong classification on the line from end to end, and statements of the enormously increased and improper expenditure suggested as a result of that. Now, we have to investigate all that, and it is for the commissioners to consider whether they are interested or not. If Mr. Murphy takes the position that he does not propose to cross-examine this witness further, then the time for re-examination has arrived; and, speaking as one member of the committee, I consider it is my duty to see that this examination is conducted without regard to the opinion that Major Hodgins may entertain of it as an engineer and as a citizen. I approach it from his position as a witness, and I propose either that he shall be re-examined by his counsel, or if his counsel, in his discretion, sees fit to take a different attitude, that then he shall be subject to re-examination by any member of the committee. I propose, in the exercise of my right and of my duty in that behalf, if I see fit to do so, to re-examine Major Hodgins and to endeavour to pursue this investigation according to the terms upon which it was referred to us, and that will include an investigation of the question of classification. That is, whether the right classification of material has or has not occurred; whether, when the engineers classified a certain quantity of rock, there was that quantity of solid rock there; whether, when they classified so many thousand yards of loose rock, there were that many yards of loose rock there. That is the matter, as I understand, referred to us and which it is our duty to investigate. Speaking for myself, that is what I propose to do, and I hope I shall have the concurrence of the other members of the committee in that respect and of the chairman. Let me say one other word to clear the atmosphere a little, and that is about this matter of arbitration. I will not state that I am prepared to say my last word on this matter, because I have not given the careful attention that I think ought to be given to it. I do not recognize for one moment that, as a matter of fact, the question we are dealing with is of the class contemplated in the clause of the contract, or the two clauses of the contract, which refers to arbitration. I do not recognize that this is a matter to be dealt with by arbitration; but even if it were, Mr. Chairman, I submit that we have nothing to do with that question. The government understood the position, and the House of

Commons saw fit to refer to us certain matters. We have not to look outside to see whether an arbitration is likely to take place or not, but we are to pursue our duty in that regard. What position Mr. Murphy shall take is for himself, as counsel, in his wisdom to decide; but at the same time I call attention to the fact that if Mr. Murphy announces now that he will not pursue the cross-examination, he must be prepared to be embarrassed by the situation which may arise later on when we further pursue this investigation.

Mr. MACDONALD.—My honourable friend, Mr. Lennox, has indulged in a very marvellous piece of special pleading in which he exhibits an unusually acute desire to investigate something that was never referred to the committee and to enlarge his scope of the investigation to a wider extent than was ever contemplated. The resolution under which this matter came before this committee sets out as follows: The memorandum of the Chairman of the Transcontinental Railway Commissioners to the Prime Minister, of date 23rd April and laid on the table of the House on the 24th inst. and the papers accompanying the same. That is one thing. 'Together with the letter of Major Hodgins to the public press therein referred to.' That is the other thing. Those two things were referred to a special committee of five members with instructions to what? To investigate about the classification on the Transcontinental Railway all over? No, but to investigate matters and charges contained in the memorandum——

Mr. LENNOX.—Therein mentioned.

Mr. MACDONALD.—Of the Chairman of the Transcontinental Railway Commissioners and in the letter of Major Hodgins'.

Mr. BARKER.—Therein mentioned?

Mr. MACDONALD.—Now, Mr. Chairman, the memorandum of the Chairman of the Transcontinental Railway Commissioners is to be found on page 15 of the printed record and starts off with the statement: 'A letter from Major Hodgins, lately our district engineer at Kenora, Ont., has been given wide publicity in the press, namely by the Manitoba Free Press, and the Ottawa Morning Citizen where it was commented upon.'

'There are insinuations and statements in it that should not be allowed to pass unanswered. Without laying any specific charges, Major Hodgins makes vague, general accusations that are absolutely groundless. It is plain that the object in view is to cause us annoyance without any regard to truth or public interest.' Then after taking up seriatim and discussing the charges Mr. Parent says:

'In conclusion, the commissioners would respectfully request, as they do not wish to remain under the aspersion which such reports cast on them, that the whole matter be referred to and looked into by Committee of the House, and that Major Hodgins be assigned to appear before the same to repeat his charges in a specific manner in order to substantiate them if he can.'

Attached to that memorandum were the newspaper reports which were the avenue through which Major Hodgins gave publicity to his statement. When this committee met it met to investigate the charges that were made by Major Hodgins, and if you will turn to the minutes of the meeting of this committee dated Wednesday, April 29, 1908, it is set forth there that:

'The special committee appointed to investigate the charges made by Major Hodgins, C.E., regarding the classification of materials, &c., in construction work on the Transcontinental Railway, met at 10.30 o'clock, a.m.

Clearly that was the intention of our proceedings. The next step we took was to ask Major Hodgins to appear before this committee for the purpose of preferring his charges. He appeared in person and through his counsel, Mr. Frank Hodgins, K.C. This committee never took note of anything that he had to do with the newspapers or of irresponsible people that nobody ever heard tell of, but what the committee did take up was what Major Hodgins said and what we did was to ask Major Hodgins to put his charges in proper form and that he proceeded to do. The synopsis of charges, which

is to be found on page 39 of the proceedings of this committee as printed was filed by Mr. Frank Hodgins as counsel for Major Hodgins and we have been occupied since the 29th of April on various days and at various times in considering the question of those charges that Major Hodgins made. At several meetings of the committee Major Hodgins gradually withdrew from the assertions which were contained in that letter, and he very fairly and frankly this afternoon stated that since becoming possessed of knowledge he indicated he had no evidence to offer indicating that there was improper conduct on the part of any of the commissioners in interfering with the engineers, and that so far as he was concerned there was only one issue remaining, and that his information with reference to the interference by the commissioners in such a manner was incorrect. The determination of that one remaining question, that of classification he desired should not be made by this committee, but should be left to the board of arbitrators of which we all have cognizance and I presume we have to take judicial notice, if we can take judicial notice of anything, of the statute which incorporates the National Transcontinental and that agreement which shows that it was in anticipation that in the carrying out of this enterprise which was contemplated there would be differences of opinion between the engineers as to what was proper classification of the work. There never was a railway built in this or in any other country in which there were not such differences of opinion. Therefore provision was made that there should be established a board of arbitrators composed of the chief engineer of the Transcontinental railway and the chief engineer of the Grand Trunk Pacific, and in the event of their disagreement by a third arbitrator. That is the tribunal to which Major Hodgins unreservedly and of his own volition after all these proceedings says he desires to have these charges referred for trial. In regard to all other matters he absolutely abandons his charges. That is the position of the matter at present. I do not know what position Mr. Hodgins, K.C., takes, but at the beginning of the proceedings of this committee the question of the appointment of counsel for Major Hodgins was taken up and was left under advisement by this committee, that matter has yet to be disposed of. Therefore, if we are not dealing with Major Hodgins' charges I do not know what we are dealing with. If there is some other person who has charges to make he has never come before up to this moment and in view of what took place this afternoon I would like to hear Mr. Frank Hodgins, K.C., on the subject. We must dispose of Major Hodgins' charges first before we can consider any others, we cannot run the two in together. Either Major Hodgins is taking the position he took this afternoon or he is not. If he is taking the position that he did then, after that matter has been disposed of I am perfectly willing to consider whether it is necessary for the enquiry to take a wider scope or not, but my position now is that we should first consider and determine whether these charges of Major Hodgins are to be further dealt with by the committee in view of what he has stated this afternoon.

Mr. BARKER.—I desire to say a few words on this. On Page 16 of the printed evidence I find this paragraph in Mr. Parent's letter to the Prime Minister: (Reads)

'You will find attached newspaper clippings in reference to Major Hodgins' letter, and all correspondence relating to the circumstances of his dismissal; also a letter from our chief engineer, Mr. Lumsden, on the same subject.

'In conclusion, the commissioners would respectfully request, as they do not wish to remain under the aspersion which such reports cast on them, that the whole matter be referred to and looked into by a committee of the House.'

Mr. MACDONALD.—'and that Major Hodgins be assigned to appear before the same to repeat his charges in a special manner in order to substantiate them if he can.'

Mr. BARKER.—The whole matter is referred to this committee. If Major Hodgins had never been examined before this committee at all, if he had died on the way from Vancouver to Ottawa, or if having appeared before the committee on one day he had died and did not therefore appear again, it would not in the least have stood in the way of this committee pursuing the enquiry, I do not think there can be any doubt whatever about that. What I contend for is this, Major Hodgins is not here as a

prosecutor, but as a witness to give evidence before this committee. I do not wish to put the case, but if this committee did not believe the statement upon oath of Major Hodgins, or if he sought to withdraw his statement, that would not prevent this committee, or any member of the committee, going on and endeavouring to prove that what was in his letter, or in those other papers, was absolutely true. This committee is not controlled by Major Hodgins or his views or his opinions. We have to investigate it, and I propose we shall do so.

Mr. MACDONALD.—Will you be good enough to tell us what there is to investigate in this matter outside Major Hodgins' charges?

Mr. BARKER.—Every question of classification which has been raised.

Mr. MACDONALD.—That is pretty general.

Mr. BARKER.—We have to investigate whether there has been any padding of accounts by increase of or over-classification.

Mr. MACDONALD.—That is purely an engineering question which belongs to the board of arbitrators.

Mr. BARKER.—That is charged in the papers.

Mr. CARVELL.—My friends are getting away from the reference, we should remember the intention in having this committee appointed. When this committee was appointed, as has been said by Mr. Macdonald, Major Hodgins was sent for and asked to make his charges in a concise and specific manner. He did so, and the charges will be found in page 39 and succeeding pages. He says there:

'The root of all the trouble between the commissioners and Major Hodgins was over-classification; and the commissioners wanted him to change his ideas as to classification.'

It is not for the committee to decide whether the engineers are exercising proper classification in different parts of the work, the question is are they doing it honestly. As far as I am concerned if Mr. Hodgins, K.C., or Mr. Lennox here wishes to call witnesses to show anything that is improper or dishonest on the part of the commissioners or the engineers under the commissioners I have no objection to having it investigated; but when it gets down to a question of a difference of opinion, it has been stated here by Major Hodgins this afternoon that it is simply a question of opinion between the engineers, one engineer saying I would classify that cut at 50 per cent of solid rock and another saying I would classify it at 60 per cent of solid rock. If there was no other tribunal possibly we would be in a position that we would have to decide, like many judges who are compelled to listen to evidence about which they have no knowledge—I do not know anything about engineering, possibly Mr. Lennox does not, Mr. Barker may know a little more about railway engineering than any other member of the committee—but a tribunal has been provided, under the statute passed at the time the Transcontinental Commission was formed, and that tribunal consists of the chief engineer of the Grand Trunk Pacific and the chief engineer of the Transcontinental Commission, and if they cannot agree they apply to the Chief Justice of Canada who appoints a third arbitrator, and that is the right tribunal to decide whether these engineers are properly exercising the duties and responsibilities placed upon them. Assuming that this committee spent a fortnight or three weeks bringing witnesses from all over the country in order to determine this question; I am thoroughly satisfied in my own mind that if we went into this matter we would have to get the evidence of independent engineers and we would have to send them over the work in order to give us an intelligent view of what the classification should be. Now, supposing we did that and supposing we came to a conclusion and said that a certain class of that work in District B, or in District F, was over-classified, or under-classified, and made a report to the House to that effect. Now that might be a source of gratification to ourselves that we had been able to come to a conclusion and that we could make that report to the House and through the House to the country, but, sir, if the legal tribunal, the tribunal that has been established by statute to decide that question, two weeks or two months afterwards make a report which is exactly the opposite to ours—and it is their report which must stand, and

upon which the money must be paid, and not ours—we would be practically only making a laughing stock of ourselves. As Mr. Macdonald has pointed out, section 7 of the agreement provided for by the statute of 1903——

Mr. MACDONALD.—That shows how this tribunal is worked out, you might read it.

Mr. CARVELL.—This is section 7 of the agreement with the Grand Trunk Pacific Railway Company set forth in the schedule of chapter 71 of 3 Ed. VII., 'An Act respecting the construction of a National Transcontinental Railway.'

'In order to insure, for the protection of the company as lessees of the eastern division of the said railway, the economical construction thereof in such a manner that it can be operated to the best advantage, it is hereby agreed that the specifications for the construction of the eastern division shall be submitted to, and approved of by the company before the commencement of the work, and that the said work shall be done according to the said specifications and shall be subject to the joint supervision, inspection and acceptance of the chief engineer appointed by the government and the chief engineer of the company, and, in the event of differences as to the specifications, or in case the said engineers shall differ as to the work, the questions in dispute shall be determined by the said engineers and a third arbitrator, to be chosen in the manner provided in paragraph four of this agreement.'

and paragraph 47 provides as follows:—

'Any dispute which may arise as to the meaning or construction of this agreement, or as to the performance of any of the obligations of either of the parties to this agreement, or as to working expenditure or cost of construction, shall, if not herein otherwise provided for, be determined by the award of a single arbitrator, if the parties concur in his appointment, or if not, by the award of three arbitrators, one of whom shall be appointed by the government, one by the company, and the third by the two so appointed, or, in case of their being unable to agree, by the Chief Justice of the Supreme Court of Canada, and the award of a majority of such three arbitrators shall be final.'

I find later on, on the 10th of January, 1906, an agreement was entered into between the Grand Trunk Pacific and the Transcontinental Commissioners, as follows:—

'MEMORANDUM *of an Agreement to be drawn up between the Commissioners of the Transcontinental Railway*

and

The Grand Trunk Pacific Railway Company.

'Monthly estimates for contractors shall be submitted promptly from time to time by the chief engineer of the commissioners to the company's assistant chief engineer at Montreal for approval. If he has any objection to such estimate he shall promptly file the same with the chief engineer of the commissioners, and any objection from time to time filed shall thereupon be considered, and, if possible, determined by the said engineers, and in case of their failure to agree, may then or at any time before or at the time of final payment, at the option of either party, be considered and determined by arbitration as provided in the agreement of the 29th July, 1903, but in no case shall the payment of monthly estimates be delayed except with the consent of the commissioners.

'In case the chief engineer of the commissioners and the assistant chief engineer of the company disagree as to the final payment, the same shall be withheld until the matter is determined by arbitration, as provided in the said agreement of 29th July, 1903.'

As a matter of fact, certain differences have arisen between the engineer of the Transcontinental Commissioners and the engineer of the Grand Trunk Pacific, and it was stated here during the last session of this committee, prior to this week, and I believe it is true without any doubt that the chief engineer of the commission and the assistant chief engineer of the Grand Trunk Pacific were then on the work going over some of these disputed points. I again submit that in the face of that law

creating a tribunal which has the legal right to settle all these matters, and in face of the fact that they are now proceeding according to law to settle these matters, it would be a most unnecessary proceeding for this committee to undertake to arrogate to itself the powers which rightly belong to another body under the laws of the land. Therefore it seems to me that while anybody has the right, Mr. Lennox or any other member of this committee has the right to cross-examine the witness or to re-examine him, still that cross-examination or re-examination should be confined to the point as to whether or not there is fraud on the part of the commissioners or their engineers in creating a classification which ought not to exist, and so far as my views go, I would be prepared to say that any member of this committee or any counsel should have the right to ask any question bearing upon the charges, but that we should not arrogate to ourselves that which by law has been handed over to another body.

Mr. BARKER.—This is the latest appointment, the appointment of this committee upon which we are acting is the last appointment that was made, in face of the statute you refer to, and in face of the so-called agreement you refer to. How can it be supposed for a moment that a committee appointed by the House of Commons can be interfered with in the performance of its duty by any documents which were in existence before it was appointed.

Mr. MACDONALD.—It is not interfered with at all.

Mr. BARKER.—If not, then we will go on, that is all.

Mr. MACDONALD.—Go on with what?

Mr. BARKER.—With the examination of witnesses, to prove the facts in these statements.

Mr. MACDONALD.—That is the Hodgins charges.

Mr. BARKER.—And in these other documents.

Mr. MACDONALD.—It is no good talking like that, there is only one set of charges before this committee, the Hodgins charges.

Mr. CARVELL.—The first charge is that Major Hodgins was taken down to Quebec and asked to see how things were done down in Quebec and to see if he would not take an object lesson and come back and adopt the Quebec classification. Now that, to my mind, if it be true, is a fraudulent act, and I think we had a right to call witnesses in order to prove that statement if it could be proved.

The CHAIRMAN.—Have you anything to say now, Mr. Hodgins?

Mr. HODGINS, K.C.—I am very glad to have an opportunity to say a word or two—

Mr. CARVELL.—After judgment has been passed.

Mr. HODGINS.—Although the committee has been passing judgment for the last half hour. I think, however, I ought to make my position clear and also the position of my client. I do not mind saying that I do not quite agree with the position my client has taken, but he has a perfect right to take that position if he chooses. I certainly would never choose to appear before the committee professing to act for an unwilling client and I therefore propose to ask him to relieve me of the retainer before this committee if he is of the mind that Mr. Macdonald seems to think he is, owing to the questions that were asked him and the answers he gave this afternoon. But I think everyone will recognize that before I do that I should ask him whether in view of the fact that he has been cross-examined and has not been re-examined, and that there are matters which in my judgment place him in an unfair light and which I think he is perfectly able to clear up through counsel if I am given an opportunity to re-examine him, I should consult with him before I terminate my retainer to appear before this committee. Possibly the committee will allow me to confer with him during the evening so that if he decides to do so I can conclude to-morrow.

Mr. MACDONALD.—If Major Hodgins has anything to say to the committee to-night, either by himself or through his counsel we will be glad to hear him.

Mr. HODGINS.—I will explain my view of my position before the committee, even taking into consideration the opinions expressed by the members of the committee. There is of course the charge that Major Hodgins originally made with regard to the

classification of his district, that was as long ago as September, he was dismissed from the Transcontinental in the middle of his investigation. But similar charges with regard to the classification of common excavation were made by Mr. Woods, the Grand Trunk Pacific engineer in his letter of October 7th which is before the committee and in which, in order to illustrate what I mean because I want to draw the distinction before the committee, I may just read one of his statements in that letter:

'Station 5882 to 5901 estimated 78 per cent solid rock, 22 per cent loose rock. A large amount of this cut wasted with slip scrapers and ploughing being done with two horses. There are hundreds of yards of earth here without a stone, large or small.'

And in the next one—

'Station 6030 to 6046. Estimated 40 per cent solid rock, 10 per cent loose rock. This is the large sand cut west of O'Brien's camp, of the 95,000 yards moved to August 31st in this cut at least 80,000 yards was pure sand.'

So that in district 'F' and district 'B' questions had arisen with regard to the classification of common excavation, which is earth and sand, and that that classification was being raised into loose rock and solid rock. That has never been in question before Mr. Lumsden or before any engineer, and what Major Hodgins referred to as the opinion that he has now read, later opinions put in I think during the early part of this year, dealing with the meaning of the word 'masses' in loose rock which he considered might be classified as solid rock under certain conditions. As to that he says there is a difference of opinion, and a difference of opinion might easily occur, but as to the other matter which is brought before the commission and is before the committee——

Mr. MACDONALD.—There is no matter before the commission.

Mr. HODGINS.—Oh yes, this letter is in.

Mr. MACDONALD.—Do you mean to say because somebody writes a letter that anything is proved?

Mr. HODGINS.—Oh no.

Mr. MACDONALD.—Let me suggest to you that you are mistaking your status before the committee and that so far as your address to this committee is concerned it should be confined to and in relation to your attitude towards your client and his position in regard to the charges he has made.

Mr. HODGINS.—I am dealing with what he said before the committee, that is when you connect the word 'mass' and the opinions expressed, that it can only relate to this matter which is to be determined by engineering evidence. Now this matter of sand classification as has been shown before the committee is not covered by what he said this afternoon, as I understand it.

Mr. CARVELL.—But, Mr. Hodgins, if the question of mass be one for the engineers, is not the question of what is really sand the same thing?

Mr. HODGINS.—You look through all the opinions given by Mr. Lumsden and those of every one else and there is not one suggestion that there could be any doubt as to that kind of classification.

Mr. CARVELL.—But if one kind of classification is a proper subject of investigation by arbitrators, how are you going to draw the distinction and say that another class of material shall be determined by this committee?

Mr. MACDONALD.—The major says he does not want to go on with this investigation.

Mr. HODGINS.—I wanted to point out the situation as I understand it, and as it appears to me from his answers this afternoon, and I am pointing out that I shall be justified, if his views are not in accord with my views then in asking him to relieve me from appearing before you. As to arbitration I think the committee can hardly take the opinion Major Hodgins has given as conclusive on that. The question of arbitration is one provided for by the Act which says that there shall be a joint supervision and acceptance of the work by the two engineers. Supposing for a moment that the two engineers agree, does that absolve the committee from the duty of seeing

whether the accounts paid to the contractors are legitimate and right? Let us suppose that the contractors got $2,000,000 out of the——

Mr. MACDONALD.—You are touching again the question of your status before the committee. That is a matter we will have to determine later on when we discuss it.

Mr. BARKER.—Excuse me, I don't think he is. Major Hodgins himself distinctly spoke of common excavation in Section 'F' which had been returned as rock.

Mr. CARVELL.—Yes, and he admitted that the total amount in the whole work would not exceed, I have forgotten the amount, but I think it was about $200,000.

Mr. MACDONALD.—Mr. Barker unfortunately was not here this afternoon to hear what Major Hodgins said. He said this afternoon that the question of whether the material should be classified as rock or loose rock depended entirely upon the opinion of himself as engineer and he did not regard himself as infallible. That is the position he took with regard to the question of classification.

Mr. HODGINS.—What he said was that taking those opinions—and I am quite willing to accept——

The CHAIRMAN.—I do not think you should go on arguing the case just now. According to me you are doing that.

Mr. HODGINS.—I am sorry for that.

The CHAIRMAN.—What we want to find out is the position that you propose to take after the declarations made by your client.

Mr. HODGINS.—I propose then, if not interrupted, to state the position in which I think the matter is left before the committee and then leave it to the committee to say whether they are going on with the inquiry.

The CHAIRMAN.—We do not propose to hear you arguing the case at the present stage and to state what the witness intended to say as compared with what he did say. I think you had better state your position and then we will go on with the case.

Mr. HODGINS.—I wish to make it perfectly clear, as Mr. Murphy has declined to further cross-examine and as my client has made statements which Mr. Macdonald and Mr. Carvell think meant something which perhaps they did not mean, what in my opinion, those statements did mean.

Mr. MACDONALD.—Have you conferred with your client as to whether or not he is prepared to take any different position from what he did before?

Mr. HODGINS.—No, but I am bound by the limitations——

Mr. MACDONALD.—We understand the English language and we heard what he said.

Mr. HODGINS.—I think I do too and I venture to say he has never said that the opinion in Quebec settled the whole question.

Mr. MACDONALD.—What he said was this: He did not regard this committee as the proper tribunal to settle differences of opinion with reference to engineers' classification.

Mr. BARKER.—He has no right to express such an opinion.

Mr. MACDONALD.—It may be that he has no right, but unfortunately for you who take the opposite view he said that.

Mr. BARKER.—It does not matter whether he said so or not.

Mr. LENNOX.—They were not proper questions or proper answers.

Mr. CARVELL.—He is the man who made the charges.

Mr. MACDONALD.—Are we to take it that when the man who made the charges says, 'I don't want to have anything further to say to the committee,' that he does not mean to say anything like that at all?

Mr. HODGINS.—No one is saying that. I don't think it represents what he did say. I do not think the committee will disagree with me when I say that you are putting that a little too broadly. All I want is to lay what is the situation before you.

Mr. MACDONALD.—If you were before a court, don't you think the judge would say to you at this stage: 'Have you conferred with your client, and are you in a position to say to the court that you are going to take any different position from what your client took here a few hours ago?'

Mr. HODGINS.—I think so, and I think I would be perfectly justified in saying, 'Certainly not.' But when I am asked to state my position, I think I have the right at least to define what I understand my client's position to be, and if the court disagree with me it cannot be helped. However, I have only one word more, and perhaps you will allow me to say it?

Mr. MACDONALD.—I am quite willing for you to say it, but you cannot convince me that your client did not mean what he said this afternoon. I am going to take it that he meant what he said.

Mr. HODGINS.—I am also going to take that, so we are not likely to disagree very far. What I want to point out is the position in which the matter is placed by the evidence. We cannot disregard the fact that there has been certain evidence placed before the committee.

The CHAIRMAN.—We are in a position to understand that without your saying it to us. I wanted you just to state your position towards your client after the declaration he made this afternoon.

Mr. HODGINS.—And then you decline to hear me any further?

The CHAIRMAN.—I do not want to stop you, but if we are going on with the case you will have a chance to cross-examine the witness. At present we do not wish to hear argument on the case.

Mr. HODGINS.—I do not want to argue the case, but what I want to know is whether you decline to hear me or not. If you do, I will sit down.

The CHAIRMAN.—We do not want to hear you arguing the case.

Mr. HODGINS.—I am not arguing the case. I do not understand this committee to be bound by Major Hodgins' view as to how he would look at the matter.

Mr. MACDONALD.—In what way do you say that? As Major Hodgins' counsel or as *amicus curiæ*?

Mr. HODGINS.—Until I have retired from the case I am his counsel.

Mr. MACDONALD.—I have heard of counsel addressing the court as a friend of the court.

Mr. HODGINS.—I trust I am a friend of the court. I don't know whether even the fact of my being his counsel debars me from that. I am quite sure the committee want to do the right thing in finding out whether this is or is not the case. It matters not to me, because if I retire from the case, as I very likely will do, I simply wanted to say that these payments are going on to the contractors in the meantime. It does not make any difference what the arbitration settles. That only settles what interest shall be paid. You will never get this money back from the contractors. There are letters on the file from the contractors protesting against the right of anybody to revise the estimates, by arbitration or otherwise, after they have been finally passed by the commission.

Mr. CARVELL.—You do not mean to say for a moment, do you, that if money was over-paid by the commissioners, and if a board of arbitration found that it was improperly paid, we would lose that money?

Mr. HODGINS.—I am not arguing for M. P. Davis or other contractors who dispute that.

Mr. CARVELL.—You have made a statement, and I have a right to ask you if you mean what you said.

Mr. HODGINS.—Pardon me a moment. I mean what I say, but you do not take correctly what I said.

Mr. CARVELL.—Do you mean to say that if we paid the contractor $100,000 and it turned out we paid $5,000 too much, that in the end the country would lose that money?

Mr. HODGINS.—I am not paid to advise commission, but what I did say——

Mr. CARVELL.—I think you are paid to answer a question fairly when it is asked.

Mr. HODGINS.—I will answer a question fairly, but I think you will perhaps par-

don me for saying that you did not get correctly what I said. I said there are letters here before the committee from contractors asserting——

Mr. CARVELL.—But before that what did you say? You stated before that that this arbitration would be of no value, because the money would be paid to the contractor, and all that it would amount to would be that the country would get rid of paying the interest on it.

Mr. HODGINS.—The country would not get rid of paying the interest, but the Grand Trunk Pacific, and I certainly assert that.

Mr. CARVELL.—That would mean that if the contractors were over-paid $5,000 on progress estimates the country would lose it?

Mr. HODGINS.—If the commission's own engineers passed it, how could they order the contractor to give it back?

Mr. CARVELL.—And you still stick to it that if they were over-paid $5,000 the country would lose that?

Mr. HODGINS.—Certainly.

Mr. CARVELL.—I wanted to get you, that is all.

Mr. HODGINS.—It is very easy to get me, I am answering the question.

Mr. CARVELL.—We now know what your views are.

Mr. MACDONALD.—It all depends upon the contract.

Mr. HODGINS.—Certainly but what I said was that the contractors assert very positively in the letter before the committee here that no court can compel them to refund money which has been paid out on the certificates of the commissioner's engineers no matter what the result of arbitration may be.

Mr. PARENT.—If you look at the agreement you will find that the law says so.

Mr. HODGINS.—Two of us cannot address the committee at the same time. It would perhaps be better for me to continue until I finish my statement.

Mr. PARENT.—It is no use your making statements that are not correct.

Mr. HODGINS.—Lawyers are often mistaken. You are a lawyer yourself, Mr. Parent.

Mr. PARENT.—You are going too far. If you read the agreement you will find something different to what you have said.

Mr. HODGINS.—That is really the gist of what I have to say.

The CHAIRMAN.—On your position.

Mr. HODGINS.—I think you will find that this arbitration may be deferred until the final payment. If the road is not constructed for 7 years arbitration may be delayed until then. It is for the committee to say whether they think that matters are left in such a shape that they can say they are all finished because Major Hodgins desires to have a settlement in another way.

The CHAIRMAN.—That is just what we want to find out.

Mr. HODGINS.—May I in conclusion suggest to you that that is not a fair position to take. It may be the major would like me to re-examine him upon some questions—largely personal questions I should imagine—which arose in cross-examination and as to which I think he has a perfectly good answer. That is a matter which can be settled by to-morrow morning. If Major Hodgins says 'No, I don't care about that' then it will be for me to consider whether I should not terminate my connection with the case.

Mr. MACDONALD.—Until what time to-morrow would you like?

Mr. HODGINS.—Any time.

The CHAIRMAN.—Very well then we will adjourn until 10.30 o'clock to-morrow morning.

Mr. MURPHY.—Before the adjournment is finally decided upon, in order that there may be no misapprehension as to what I said, I desire to correct my learned friend Mr. Lennox, in attributing to me the statement that I did not intend to cross-examine this witness further. What I said was 'I propose at this stage to suspend his further cross-examination.'

Mr. LENNOX.—I thought you were referring to another matter. I am quite prepared to accept your explanation.

Mr. BARKER.—Whether the cross-examination be suspended or not the committee will permit you to cross-examine.

Committee adjourned.

WEDNESDAY, June 17, 1908.

The Committee met at 10.30 o'clock, a.m.

Mr. HODGINS.—I do not think there is anything I desire to re-examine Major Hodgins on and with his permission I accordingly retire from the case.

The CHAIRMAN.—What is the pleasure of the committee? What is the next proceeding?

Mr. BARKER.—I suppose the committee have nothing to say to that? They cannot prevent Mr. Hodgins, K.C., from retiring from the case.

Mr. MACDONALD.—I would suggest that we adjourn until to-morrow to give all parties interested an opportunity of considering their position. Speaking personally I would like to look into the record and certain authorities bearing on this matter. Some honourable gentlemen on the committee perhaps think that a certain line of examination might be gone into. As far as I am concerned, I would like to consider the position of the committee at the present stage before moving one way or the other.

Mr. BARKER.—I think that is not unreasonable.

Mr. CARVELL.—Before we come to that decision would it not be possible for members of the committee this morning to define their position to some extent? Otherwise if we adjourn and meet to-morrow we shall be no further advanced than we are now .

Mr. BARKER.—Do you want us to define our positions before we have made up our minds.

Mr. CARVELL.—I do not think that is a fair answer or a fair comment. It was stated yesterday afternoon by Mr. Lennox that he proposed to go on and cross-examine the witness. If Mr. Lennox is still of that opinion I do not see any reason why a portion of this morning at least should not be taken up in that way.

Mr. MACDONALD.—Personally I think the wisest thing would be to adjourn until to-morrow. That is my own personal view.

Mr. LENNOX.—I think that Mr. Macdonald's suggestion is a proper one. We all want to do what we think best, and it may be that after consideration and going over the papers in this case we shall form a different conclusion to any decision we might reach offhand. In reference to the re-examination of Major Hodgins, that would be a matter involving a certain amount of preparation. I would have to go back over the evidence that has been given and see how far such re-examination would be necessary. Then, too, it would depend a good deal upon the position taken by the majority of the committee.

Mr. CARVELL.—It seems that I am in the minority and, therefore, must accept the situation, but notwithstanding I register my protest against wasting so much valuable time.

Mr. MACDONALD.—In making the suggestion I did for an adjournment, my object was to obtain time to consider what our future course would be. Certain charges made by Major Hodgins having been referred to us, we are in the position this morning that the Major has abandoned those charges, and the object of my suggestion was to afford time to consider what should be done next.

Mr. CARVELL.—Why should we keep Major Hodgins here any longer; he has been away from home nearly two months.

Mr. BARKER.—Are you getting in a great anxiety about Major Hodgins getting home?

Mr. CARVELL.—Not in a very great anxiety; he is not my client, but I am opposed to this eternal delay which has occurred ever since we started. In a court of justice this would not be tolerated. It seems to me that every member of the committee is in league to delay this investigation.

Mr. BARKER.—Speak for yourself.

Mr. LENNOX.—It is entirely improper for Mr. Carvell to make any such remark; he has no ground whatever for doing so. Speaking for myself, I have urged that this investigation be pressed ever since the first day we met; it cannot go on too quickly for me. But when an unexpected situation occurs and it is suggested by Mr. Macdonald that we should take time to consider our position and what action should be taken in the future, I think it comes with great impropriety from Mr. Carvell to make any such remark.

Mr. CARVELL.—I think the confession which my honourable friend has made is one that does not do very much justice to him. He has sat here at nearly every sitting of the committee and now says that he wants time in order to re-examine Major Hodgins and prepare his case. If I wanted to re-examine a witness, and I do not profess to have any more ability than my honourable friend, I think I would proceed right off. Notwithstanding what my honourable friend says, I think he could do the same.

Mr. BARKER.—You overlook the fact, Mr. Carvell, that the object of considering the whole situation now is not with relation to Major Hodgins or any examination of him. You were so rapid in making up your mind that you got ahead of the rest of the committee. We want a little consideration before we take a very important step.

Mr. CARVELL.—It seems to me that you require quite a lot of time.

Mr. LENNOX.—I have not asked for any postponement, and if the investigation were proceeded with this morning I would not go on with the re-examination of Major Hodgins. On the contrary, I would proceed to the discussion of what position we should take in this matter. Yet I think the suggestion of Mr. Macdonald is a wise one. In my opinion it is very fitting for us to consider what course the committee should take.

The CHAIRMAN.—Well, the majority of the committee seem to be in favour of adjourning until another day. The meeting is therefore adjourned until to-morrow afternoon at 3 o'clock.

THURSDAY, June 18, 1908.

The committee met at 3.10 p.m.

The CHAIRMAN.—Before we decide on the next proceeding I would like to have the views of the members of the committee on what should be done in the case, I should like to have every member of the committee state his views about it. Mr. Barker will you tell us what you think about it now?

Mr. BARKER.—I think Mr. Lennox and I expressed pretty fully yesterday the conclusions that we came to and which we hold to. Practically what was said then and what we say now is that no action, statement or opinion of Major Hodgins can impede or fetter this enquiry, not even as regards the charges made in his own letter. We say also that the charges made by Major Hodgins may or may not be true, that is a question of evidence, on which his affirmation alone would not be conclusive, neither would any retraction, if he did retract. The enquiry is not limited to any charge made by Major Hodgins, but it extends to the over-classification whether alluded to by Major Hodgins or not. The papers produced show over-classification of which Major Hodgins had no knowledge, and could have no knowledge; the draft agreement of the 10th of Jan., 1908, and the letters produced, show the existence of complaints

extending over many months charging over-classification of a most extraordinary character. Those charges and those he refers to should be investigated, that is my view.

Mr. MACDONALD.—Your theory, Mr. Barker, apparently is that we have to investigate charges of over-classification?

Mr. BARKER.—That is the main charge.

Mr. MACDONALD.—What do you say about the statutory provision for dealing with all questions concerning classification.

Mr. BARKER.—Well, Mr. Lennox and I hold the same view except that we do not agree that Clause 7 allows any interference with the question of cost. The purport of the section first is to enable the lessee to have proper specifications prepared for the purpose of the work undertaken by the government; secondly, they are entitled to a reference as to the fact whether these specifications are being carried out or not so as to produce good work.

Mr. MACDONALD.—That is a matter of classification.

Mr. BARKER.—Not as to the cost of it, not as regards classification, classification is for the purpose of payment.

Mr. MACDONALD.—Well, that is the cost, of course.

Mr. BARKER.—That we do not admit, neither do we admit for a moment, whatever the extent of the reference, whether it includes the cost of the work has the reference, at this stage the effect that would preclude this committee, or deprive the committee of its right and duty to go on with the inquiry. It might be that for some reason the government of the day and the Grand Trunk Pacific might see fit for purposes that we need not go into, for purposes of their own, or without any purpose at all, to have an extravagant or improper expenditure. That does not at all preclude the House of Commons from appointing a committee of its own to investigate whether the expenditure is improper or otherwise.

Mr. MACDONALD.—What is your view in regard to the charges of improper conduct on the part of the commissioners, interference as to classification?

Mr. BARKER.—That will be the result of the inquiry, whether there is over-classification or not. It is not perhaps material at present whether they intended them or not; the question at present is whether there is over-classification or not, whether from mistake or otherwise is a separate question.

Mr. MACDONALD.—What do you say to the proposition that there is nobody who has charged improper conduct on the part of the commissioners except Major Hodgins and he has withdrawn those charges?

Mr. BARKER.—He cannot withdraw them, they are referred to this committee, he cannot withdraw them, it is outside of his power to withdraw any charge.

Mr. MACDONALD.—He has the power so far as he is personally concerned, and he has said so far as he is concerned he has no evidence to offer in support of those charges and withdrew them.

Mr. BARKER.—He has no charge to withdraw, he has no more right to withdraw the charges than a person who has been robbed has to withdraw.

Mr. CARVELL.—I cannot bring myself to the view Mr. Barker has in this case. As far as I understand it we are investigating the charge brought against the commissioners by Major Hodgins in the paper in Victoria, B.C., and if you look over this charge, after being, in accordance with the request of this committee, put in proper shape by Major Hodgins after his arrival here, the very first thing he says is that the whole of the trouble between himself and the commissioners is that they wanted him to change the classification; then it goes on all the way through to show that it was clearly a question between Major Hodgins and the commissioners as to what the proper classification was. I can only reiterate what I have stated on two or three occasions that it does not seem to me this is the proper tribunal to decide this question at all, it is provided by statute that this shall be decided in another way. If some of the witnesses produced say there is fraud on the part of the commissioners, I do not know, possibly this committee might go on and investigate that, although I

think to be logical, the work of this committee is ended, because we were appointed to investigate the charges made by Major Hodgins, who has withdrawn those charges in toto, therefore there is nothing left for this committee to investigate. All we can do, to be logical, is to close up the inquiry and report to the House. While I do not want to be put in the position of burking any investigation, if any evidence is produced to show that the commissioners committed fraud, or asked Major Hodgins or anybody else to do what was wrong I do not think it ought to be excluded, but I think we ought to consider our position and let us understand where we are. As far as I am concerned I am absolutely opposed to any evidence being given by anybody as to classification, that is to be decided by another body.

Mr. LENNOX.—Then as I understand it Mr. Carvell's view is substantially as he stated it the other night.

Mr. CARVELL.—About the same.

Mr. LENNOX.—That is that it can be investigated only in the event that some member of this committee comes forward and says, I am prepared to establish fraud.

Mr. CARVELL.—That is it, I take the ground that supposing Mr. Barker's contention is correct, that there is evidence to establish the fact that the engineers are not exercising proper judgment in their mode of classification, that he should take the responsibility as a member of this House to rise in his place and say so on that responsibility, and ask for the matter to be investigated, if he should do that it is a new question entirely. We are not appointed to investigate whether these engineers are properly exercising the discretion conferred upon them, but whether there is fraud between them and somebody else, and that brings up the question suggested by Mr. Barker, supposing there is fraud between them and the Grand Trunk Pacific, that is a proper subject for inquiry if somebody takes the responsibility of making the charge, but until somebody does I do not see that we have any right or jurisdiction in it at all.

Mr. MACDONALD.—We have all heard of the farce of having the play of Hamlet with Hamlet left out. I think there can be no position of affairs that would approach more closely to that condition than that which we now have facing this committee. And I say that for this reason, if this is not a committee to investigate Major Hodgins' charges I do not know what it is to investigate, and if Major Hodgins is not coming to play in this theatre, I do not know where his charges are except they are off the board. It would be just as well to call attention to the way in which this committee's existence was brought about. Mr. Hodgins, in the city of Victoria, B.C., on April 16th, sat down to write a letter to a newspaper in which he made certain reflections on the commissioners and made certain statements which are familiar to us all. This letter was copied in various eastern papers and commented upon by them with the result that the commissioners wrote to the premier asking him to refer the Hodgins charges against them to a committee to be investigated. That reference was made in an order of the House of Commons on April 28th, 1908, in these words :

'That the memorandum of the chairman of the Transcontinental Railway Commissioners to the prime Minister, of date the 23rd April, and laid on the table of this House on the 24th instant, and the newspapers accompanying the same.'

Those papers accompanying the memorandum of the chairman of the Railway Commission being the newspaper articles referred to, 'together with the letter of Major Hodgins to the public press therein referred to be referred to a special committee of five members, with instructions to investigate the matters and charges therein mentioned.'

Then follow the names of the members composing the committee, all of whom are here.

'And that they have power to send for persons, papers and records, etc.'

Now, in pursuance of that order we met on the 29th of April and the first thing we did was that we asked Major Hodgins, the gentleman who made those charges, to come before us. Nobody proposed at the time we should send for anybody else; nobody ever suggested that we should ask any other person to appear here in the role of prosecutor, nor did it ever appear to the minds of anyone that anybody should be

considered as initiating this prosecution except Major Hodgins. Major Hodgins came here and appeared, personally, and by counsel and counsel asked that he be compensated by this committee for this service. My honourable friends supported that proposition which was taken under advertisement by other members of the committee and not finally disposed of. If there was anybody else but Major Hodgins and his charges before this committee at that particular date I am quite sure no member of this committee nor the country ever thought so. This was followed up by Major Hodgins' counsel preparing a synopsis of the charges in which he defines the statements and charges which he had made in a more loose way in the newspapers. If there was anybody in this committee or anybody in parliament, or anybody in this country that thought there was anything before this committee on the 11th of May except the statement contained in Major Hodgins' charges as set forth in that document filed by his counsel, I have not heard it. We have spent the time since the 11th of May investigating this statement until on Tuesday afternoon Major Hodgins admitted his desire to withdraw all the imputations in that document reflecting upon the commissioners, and in that connection he stated unreservedly to this committee that he could not prove those statements. This was followed the next day by counsel withdrawing from the case, and in so far as language and acts could go absolutely abandoning the whole proceedings.

Mr. BARKER.—Do you mean to say that counsel abandoned it ?

Mr. MACDONALD.—I have had some experience in legal matters and I have never seen an occasion where a counsel threw up his retainer and walked out of the court room and threw off his gown if Mr. Hodgins did not do so.

Mr. BARKER.—Do you mean to say that Mr. Hodgins, K.C., abandoned the charges ?

Mr. MACDONALD.—I do not see who else he could answer for except when he appeared before this committee as counsel for Major Hodgins.

Mr. BARKER.—You used the words that 'he abandoned the charges.'

Mr. MACDONALD.—He was simply Major Hodgins, and as Major Hodgins he formally abandoned the proceedings before the committee as his client had abandoned his position the day before. It is rather difficult to find many precedents, although I have endeavoured to look for them. I have not heard in the very ingenious statement of Mr. Barker any answer to the position which I have attempted to state. I think that my views are rather confirmed by what he said, except that Mr. Barker goes on and says that we have been under a very big delusion ever since the 29th of April, that is was not Major Hodgins' charges that we were investigating, but some theories of somebody else. In other words, that this committee was not a judicial body, but a body with roving rights to sit here and hear everything that anybody in Canada who chanced to come along might say. I say that is not the purpose of this committee, which was constituted for the purpose of hearing the charges which Major Hodgins made. Major Hodgins having withdrawn those charges, any further proceedings here would be simply a farce, it would be the play of Hamlet with Hamlet left out.

Now, as regards the question of classification, my friend Mr. Barker indicated that he and Mr. Lennox entertained the view that section 7 of the agreement does not provide for the determination of questions such as the difference of opinion between engineers. I think it is a matter of public knowledge, and a matter of record in parliament, that this contract or agreement was discussed at very great length by, I think, Mr. Barker himself, and that Parliament solemnly decided that, anticipating the fact that there would be a difference of opinion between the engineers as to what what would be the proper interpretation of the specifications, and as to what would be proper classification, in the event of differences as to the specifications or in the cost, the engineers, that is if the engineers of the commission and the engineers of the company shall differ as to the work (it seems to me that the language is pretty broad, that if they shall differ as to the work, as to the construction of the road or

what shall be paid for it, as to the meaning of the specification—and Major Hodgins says that the only thing left now is the question whether his view as an engineer as to the specifications and their construction, and the work done under them, or that the view of certain other engineers on these things, is correct—it shall be determined by the said engineers, and in the event of their disagreement by a third arbitrator to be chosen in the manner indicated in paragraph 4 of the agreement. I was just going to say it is a well-known principle of parliamentary law that the powers and duties of a committee are limited, marked and defined by the order of reference which creates them. We have no status, no power, no rights of any kind whatever except what are given to us by the order of reference of the 28th of April. We have no right to do anything, to investigate anything, or to deal with any subject except what is mentioned there. If somebody appeared in the newspaper to-morrow with charges of any kind reflecting upon the Transcontinental Commission, that charge could not be taken up before this committee, because it was not referred to us. Such charge would have to be dealt with in parliament, where it could be referred to another committee. That is the only way in which it can reach any committee. We are not a standing committee of the House, such as the Public Accounts Committee, dealing with a general range of subjects contained in that order, and while one is disposed to sympathize with a keen and active opposition which is particularly anxious to attack the government and condemn it and to investigate matters, gentlemen composing the opposition must realize that the principles of parliamentary government define the power of the committee, and I have no hesitation whatever in taking the position that when Major Hodgins abandoned his charges, parliament, the country and everybody regarded the functions of this committee at an end. That is my position, Mr. Chairman.

The CHAIRMAN.—May I ask, Mr. Barker, what you propose to do now? Supposing we were to go on what would you propose to do?

Mr. BARKER.—I propose to take up every case of over-classification which is apparent on the papers already produced and there are scores of cases already developing on those papers—to go into those and either prove or disprove them as the case may be.

The CHAIRMAN.—Major Hodgins asked me yesterday if he could expect to be discharged from attendance immediately as he wants to go home. What is the opinion of the committee? Do I understand that he is now discharged?

Mr. LENNOX.—We are hardly at that stage yet I think.

Mr. CARVELL.—It seems to me that is the stage we ought to reach first.

Mr. LENNOX.—I think we should first finally decide what shall be done. We have heard from three members of the committee, and I count myself a fourth, upon that point. If we decide to do anything further we may want Major Hodgins. So far as I am concerned I do not think we will, but I would like to say something as to whether we should proceed with this investigation. My honourable friend, Mr. Macdonald, made reference to an active opposition. I hope it is not because we happen to be of different political opinions that we chance upon this occasion to differ in our views as to what should be done. I am prepared to assume that every gentleman on this committee is sincerely anxious to do what he believes to be absolutely right. No doubt we come here tinctured to some extent with preconceived opinions that may unconsciously influence our attitude. The desire to be non-partisan is perhaps more in evidence in a committee of this kind, where there are only a few of us, than it is in a large committee like the Public Accounts Committee, and our effort to be judicial is all the greater. I do not understand then that there is any prosecutor at all in this case. I do not understand that either Major Hodgins or his counsel was prosecutor. This matter has been referred to us to investigate and we have to shape the course of the investigation. The question really at issue is as to what was actually referred to us. I do not understand that this is a matter in which one political side or the other should be especially interested. This matter has been referred to us by the House of Commons to investigate and what I contend, Mr. Chairman, is this: The matter so

referred was not whether Major Hodgins could establish his charges or not, it was not a matter of whether Major Hodgins appeared at all or not; it was to ascertain whether, as a matter of fact, a system of improper classification had been adopted upon the Transcontinental Railway. We are expected to inquire into that matter and, as an incident, and as an incident only, that it was anticipated that Major Hodgins would be a witness and that he would offer evidence upon that question. It was never contemplated, when this matter was referred to us, that we would be guided or controlled in any degree by the personal opinions or by the suggestions of Major Hodgins except in so far as he could give evidence as a witness. The charges were contained in many documents. Major Hodgins' letter was one, but only one of those documents. The scope of the reference to us was not limited by the letter of Major Hodgins, but by the statements contained in all the documents embodied in the reference.. That is evident by the form of the resolution (reads):

'That the memorandum of the chairman of the Transcontinental Railway Commissioners to the Prime Minister of date the 23rd April, and laid on the table of this House on the 24th instant, and the papers accompanying the same, together with the letter of Major Hodgins to the public press therein referred to, be referred to a special committee of five members, with instructions to investigate the matter and charges therein mentioned, and that the said committee be composed of'——

And so forth. To investigate the matters and charges in all those several documents referred to, not placing one ahead of another, not making one more prominent or important than another, but putting all exactly on the same plane. And so, Mr. Chairman, in order to determine the scope of our investigation we have to turn to the documents and ascertain what are the charges contained in those several documents. I discussed this question the other day and will not elaborate that view of it particularly, more than to say, that there were a number of newspapers—the Winnipeg *Free Press*, the Ottawa *Citizen* and the Victoria *Colonist*—containing Major Hodgins' letter and certain editorial matter, and the memorandum of the chairman of the Transcontinental Railway Commission. Now, just referring for a moment as to what I think is the scope of this investigation, in Major Hodgins' letter alone, I submit, there is enough to point out to us that we should inquire—altogether aside from the presence or absence of fraud—as a matter of fact, whether the bills being sent in from time to time on behalf of the contractors on the Transcontinental Railway are larger than they ought to be. That is the point. This is not a fight between the Grand Trunk Pacific and the Transcontinental Railway Commission, but an investigation between the country on the one hand and the men who are doing the work on the other. The men who are doing the work, that is the contractors and more than these, the men who are representing the country as our engineers and officials on the road and at the head office here. In Major Hodgins' letter we find it stated that the root of the trouble between the commissioners and himself is over-classification. That is not limited to any particular section of the line. Let us see what he says (reads):

'The root of all the trouble between the commissioners and myself is over-classification. They wanted me to change my ideas, based on a good many years experience on construction, to classification that is allowed to the contractors in Quebec,'

Mr. CARVELL.—Do you construe that word 'over' to be excessive classification or does it mean 'about' classification ?

Mr. LENNOX.—I am not very sure about it. 'The root of the trouble between the commissioners and myself was over-classification.' Reading it over the other day I thought he meant exorbitant or high classification.

Mr. CARVELL.—I took it to be 'about.'

Mr. LENNOX.—It is possible it might be read in another sense but I take it the trouble was 'over' classification.

Mr. CARVELL.—Excuse me for interrupting you, I merely wanted to know your views.

Mr. BARKER.—It means 'over' classification.

Mr. LENNOX.—In making this point clear I attach less significance, as far as this inquiry is concerned, to the position of Major Hodgins and to his letters, without disparaging him in any sense, than I do to the larger question disclosed by the documents brought down during the progress of this investigation,' the documentary evidence placed before the committee showing as it does, large questions in dispute and a persistent statement by interested parties that there is very general over-classification both on the Quebec and Winnipeg sections of the line. Now Major Hodgins goes on to say (reads):

'It was suggested that I should ignore the chief engineer and act independently, that the chief engineer liked to be ignored. I refused to be more liberal in classification than I was then allowing, and suggested that the commissioners not being railroad men should leave the engineering department alone.

'Mr. C. A. Young, commissioner for Manitoba, then advised that I should go to Quebec and see how things were managed in that district, where contractors were not kicking, and get an object lesson. I went, and returned determined not to allow Quebec classification to be introduced into the western district as long as I remained in charge. This, of course, led to trouble, and I got no assistance from the chief engineer.'

Major Hodgins initiated this issue. It is not a matter of prime importance whether he can incidentally sustain it or not. He goes on to say (reads):

'The quickest way for the government to find out if the classification allowed is extravagant or not will be for the Minister of Railways to ask for the monthly reports of the Grand Trunk Pacific Railway engineers, who are stationed on the Winnipeg district and the Quebec district, Messrs. Mann, Heaman and Armstrong; these reports are, I think, sent to the assistant chief engineer of the Grand Trunk Pacific in Montreal. These engineers are well known in the west, and their reports contain much more information on the subject than I have.'

So that even if we were confined to the statements of Major Hodgins alone, in his letter he opens up the clear charge of over-classification from one end of the line to the other. Then he says, and that is all I need quote from the letter (reads):

'As I have already mentioned, let the government ask for the reports and opinions of engineers who are safeguarding the Grand Trunk Pacific interests, and judge for themselves if Mr. Parent is correct in his standard of classification, or extravagant.'

Now the 'Free Press' of Winnipeg said in its issue of April 18th last (reads):

'Alleging broadly that millions of dollars is being wasted or stolen in the construction of the government portion of the Grand Trunk Pacific Railway, Major A. E. Hodgins, C.E., has issued a letter, the object of which is to procure an administrative investigation, &c.'

And then it goes on to say (reads):

'The pith of his charges is that the Grand Trunk Pacific engineers' reports and those in the employ of the government do not tally; that the government is paying padded accounts for the work done, and that the Grand Trunk Pacific people are making no objection because they merely have to pay the added interest.'

Here is the allegation in this paper that there is collusion between the Grand Trunk Pacific and the Transcontinental Railway Commission. That is just as much of a charge demanding investigation, in the interest of the country, as any charge contained in Major Hodgins' letter. And then at page 10 of the printed record we find an extract from the Ottawa 'Citizen' of April 22nd last (reads):

'Troubles are coming fast and thick upon the Laurier administration. The latest are the public charges made by Major Hodgins, late district engineer for four hundred miles of the government end of the Transcontinental Railway. The essence of his statement is that millions of dollars are being boodled in connection with this government work. Names and figures are given and the allegation is made that he was

forced out of his position because he refused to be the tool of the boodlers. His professional record and admitted ability give due weight to the assertions which he boldly makes. The charges cover not only his former division but apply to the construction of the whole line through Quebec.'

That also was referred to.

Mr. MACDONALD.—Would you say that the wild talk of every Conservative newspaper in the country in regard to the Transcontinental Railway Commission is before this committee?

Mr. LENNOX.—No, I do not.

Mr. MACDONALD.—These wild comments which are absolutely meaningless as far as practical businesslike statement is concerned.

Mr. BARKER.—The chairman of the Transcontinental Railway Commission himself raised that question and said that he could not remain under these rumors.

Mr. MACDONALD.—If you will read the memorandum of the chairman of the commission at page 15 you will see that he sent the newspaper clippings along to show the publicity which had been given to Major Hodgins' statement.

Mr. LENNOX. I will say this in answer to my honourable friend: that we are not concerned with the general charges, wild or otherwise, of the Conservative press, but we are concerned with the statements in the documents referred to us. The instructions of the House of Commons were to investigate 'the matter and charges therein mentioned,' and I do submit with the greatest confidence as to what the ultimate judgment in this matter will be, that we cannot place the charges contained in any one of these statements ahead of the charges contained in another. Mr. Parent collected what he thought was material and attached to his letter these various newspaper extracts.

Mr. MACDONALD.—To show the publicity given to them. I ask my honourable friend whether it is not fair to say that all these newspaper comments were introduced to show the publicity that had been given to Major Hodgins' statements?

Mr. LENNOX.—My honourable friend Mr. Macdonald, may be quite right but I do not understand it in that way. I do not want to go beyond Mr. Parent's own statement. Let me here interject what Mr. Parent said in summing up. He says (reads):

'You will find attached newspaper clippings in reference to Major Hodgins' letter and all correspondence relating to the circumstances of his dismissal; also a letter from our chief engineer, Mr. Lumsden, on the same subject.'

'In conclusion, the commissioners would respectfully request, as they do not wish to remain under the aspersion which such reports cast on them, that the whole matter be referred to and looked into by committee of the House and that Major Hodgins be assigned to appear before the same to repeat his charges in a specific manner in order to substantiate them if he can.'

Now I think it is only fair to say that we are not controlled altogether, or controlled very much probably, by the terms of this letter. It does not necessarily control the Order of Reference. Now we also know that in the editorial matter of the Colonist, which I need not read, there are very sweeping charges of over-classification, not the charges that Major Hodgins filed, or that he could to the fullest extent substantiate, or adopt. Major Hodgins in this matter is only the initiating party. The matter got beyond Major Hodgins within a day or two and when it had assumed a certain phase the government took it in hand and said, 'We will refer this whole matter to be investigated by a committee.' But I will also say this: that we are not driven to a question of difficult construction of the meaning of the reference because every member of this committee is upon record in reference to it. I repeat, Mr. chairman, every member is on record including yourself—although you have not yet to-day expressed any opinion—as to what we ought to investigate, and every member, if I construe his utterances properly, has said that our investigation goes beyond Major Hodgins' charges and is not controlled, or to be guided in any way, by the attitude which Major Hodgins may happen to take. Turning to page 74.—A discussio[n]

is taking place as to what Mr. Hodgins shall put in as his synopsis of his case. Let me quote from the discussion (reads):

'Mr. HODGINS.—I think I read one of the cuttings some days ago.

'Mr. CARVELL.—I presume you would admit, in case the formal charges which you may make here as representing Major Hodgins did not include everything in reference to this committee, that the committee would still have the right to go on and enquire into the foundation in the charges in the newspapers and in the reference.'

Now that is pretty definite (reads):

'Mr. HODGINS.—I did not quite catch your question?

'Mr. CARVELL.—In case the formal charges you will prefer do not include everything mentioned in the reference, you will admit the committee have the power to go further and investigate everything that is in the reference.'

In other words, if Major Hodgins had backed out completely at first, as he did not, or at the last, as he did, it does not affect what is referred to us to investigate; our right, or rather I should say our duty, to proceed in this matter is only limited, if at all, by the impossibility of carrying out what has been entrusted to us. If we can proceed we should allow no difficulty, such as that of Major Hodgins changing his mind, to prevent us from going on. But let me quote further from the discussion (reads):

'Mr. MACDONALD.—It being understood—I think Mr. Parent has so understood and I understand Mr. Hodgins, K.C., to say so—that the memorandum he proposes to submit to us does not relate to anything outside of what has been already referred to the committee in the papers but is only a summarization of the allegations contained in the newspapers.'

Mr. MACDONALD.—Certainly. Do you mean to suggest that I said we could investigate anything more than is contained in the charges?

Mr. LENNOX.—Some of the statements made here are perfectly definite you will find. Of course, I do not want to force my argument upon the judgment of any honourable friend.

Mr. MACDONALD.—You will find some difficulty in supporting your contention from anything that I said.

Mr. LENNOX.—I do not say that every one of the sentences quoted are conclusive but they go to bear out my contention. Let me proceed with the quotation (reads):

'Mr. CARVELL.—And does not necessarily curtail our rights.

'Mr. LENNOX.—Does not either enlarge or curtail.

'Mr. PARENT.—I know what is coming, gentlemen, Mr. Hodgins said so a minute ago. What he wants is larger scope.

'Mr. MACDONALD.—There will be no larger scope, he has to confine himself to the reference.'

Mr. MACDONALD.—Hear, hear.

Mr. LENNOX.—That is all right. It is not conclusive, I admit.

Mr. MACDONALD.—It is conclusive against you.

Mr. LENNOX.—I say myself, and I have said from first to last and my honourable friend will agree with me, that we must be confined to the reference, but that it gives us larger powers and imposes upon us larger duties than my honourable friend admits. But to quote once more (reads):

'Mr. CARVELL.—I am afraid Mr. Parent has misunderstood the object of the discussion?

'Mr. PARENT.—No, I have not.

'Mr. CARVELL.—I think it is in the minds of every member of the committee that we will not allow Mr. Hodgins to enlarge his charges as contained in the newspaper reports.

'Mr. BARKER.—Nor reduce them.

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'Mr. CARVELL.—If he proposes to reduce them then so far as I am concerned speaking for my own part, I would say we ought to stand by the reference to the committee and after Major Hodgins makes his charges then we will know what course to pursue.'

Some of these statements are not definite, but that is definite and positive I submit (reads):

'Mr. LENNOX.—With all due respect we must confine ourselves at present to determining what is the best procdure to follow in order to carry out what has been referred to us. That we are endeavouring to do. The charges made by Major Hodgins will be, to some extent, perhaps, of assistance to us; but we have to travel exactly upon the lines of what has been referred to us, neither enlarging nor circumscribing them. That fact does not relieve us from the duty of pursuing the matter just as it has been referred to us nor from investigating all the questions referred. I think every member of the committee understands that.

'Mr. CARVELL.—Yes.'

That is pretty definite.

Mr. CARVELL.—I have not departed from that attitude, Mr. Lennox.

Mr. LENNOX.—It is not my object to raise any greater number of debatable points than are inevitable and I am not saying that my honourable friends are wrong. I am only presenting my views and I am at the same time very clear in the conviction that they are right. Now, on the next page (reads):

'Mr. CARVELL.—I do not think that was the intention of the committee, though.

'The CHAIRMAN.—The committee will not allow you to make new charges. As I understand it we will take those charges that have been made in the public press.'

That is what the chairman said and he is the greatest authority we have.

Mr. MACDONALD.—That is right. He made the charges in the public press.

Mr. LENNOX.—My honourable friend says that is right. What are the charges in the public press? If you take the newspaper clippings which have been referred to us you will find they contain charges of the most flagrant character, of boodling.

Mr. MACDONALD.—Does that refer to the alleged interview?

Mr. BARKER.—It is in the press clippings attached to the reference.

Mr. LENNOX.—The charges that are contained in the press.

Mr. MACDONALD.—I thought you stated a while ago that the wild talk of irresponsible newspapers was not to be regarded?

Mr. LENNOX.—No. If you take the wild talk of irresponsible newspapers, or any newspapers, subsequent to the 28th of April, or outside of the documents referred to us and they are not to be investigated. Now the chairman in the discussion from which I have been quoting stated (reads):

'The CHAIRMAN.—The Committee will not allow you to make charges. As I understand we will take those charges that have been made in the public press.'

What I am claiming, Mr. Chairman, is this: That at the beginning of this transaction we all understood it exactly in the same way.

Mr. MACDONALD.—Not at all. I absolutely disclaim any interpretation you choose to put on anything I have said. I have said nothing before or since except that we are to investigate what is contained in Major Hodgins' charges. There is no language of mine that will bear any other interpretation.

Mr. LENNOX.—I am not saying that my honourable friend is right or wrong. I am simply giving his language to the committee.

Mr. MACDONALD.—Very well let us have it, Mr. Lennox.

Mr. LENNOX.—I am not going to repeat it.

Mr. MACDONALD.—You cannot quote one word of mine since the beginning of this case that would justify the interpretation you seek to make.

Mr. LENNOX.—I am not going to indicate anything except what I have read and am about to read.

Mr. MACDONALD.—You may read all that you can find and you will discover nothing that will indicate that your contention is correct.

Mr. LENNOX.—Please allow me to go on.

Mr. MACDONALD.—Why do you persist in saying that which is not correct ?

Mr. LENNOX.—What am I saying that is not correct ?

Mr. MACDONALD.—That at various stages of this inquiry I had made the statement that I regarded the purpose of the inquiry to be along the lines you state.

Mr. LENNOX.—I am not aware of having said anything of the kind.

Mr. MACDONALD.—What is it you say then ?

Mr. LENNOX.—I have simply read statements that I say bear out this construction: that at the beginning of this investigation all the members of the committee viewed it in the same way.

Mr. CARVELL.—All agreed that we would not go outside the reference and now the question comes down to what is in the reference.

Mr. LENNOX.—I do not think that the mode of procedure is exactly fair.

Mr. CARVELL.—I beg your pardon. It seems to me you are reading from these pages to show that we would not go outside of the reference.

Mr. LENNOX.—If the quotations that I am giving do not bear the construction I put upon them then my argument falls to the ground.

Mr. MACDONALD.—It is a construction of what the reference means.

Mr. LENNOX.—Yes, and I first dealt with the reference. I say that the reference on the face of it shows the scope of this inquiry to be as wide as I claim it to be. Then I referred to the charges contained in the newspapers. The next point is how we understood the reference to us and how we are going to conduct this inquiry. Now let me quote further from the discussion at page 78 (reads):

'Mr. MACDONALD.—I think we are playing at cross-purposes. I think what Mr. Hodgins, K.C., means is this : He proposes to indicate out of this letter and interview in the paper what particular portions he proposes to prove.'

'Mr. CARVELL.—If he stands by that there is no objection.

'MACDONALD.—That is how I understand it, and the committee have the right to investigate everything contained in the Order of the Reference.'

Mr. MACDONALD.—Hear, hear. Let me direct my honourable friend's attention to the point at issue. What I said before was this : That Mr. Hodgins, K.C. was proposing to indicate out of Major Hodgins' letter and interview what particular portions he proposed to prove and I said that I understood we had the right to investigate everything contained in that letter and interview even supposing he did not propose to prove it or that he did not state it.

Mr. LENNOX.—Quite so.

Mr. MACDONALD.—Well, Major Hodgins abandoned everything in the letter and interview and disclaimed it.

Mr. LENNOX.—My honourable friend will allow me now (reads) :

'Mr. PARENT.—We have been accused in the newspapers——

'The CHAIRMAN.—Yes, it has been spread all over the country.

'Mr. PARENT.—If the gentleman is allowed to limit his charges, I suppose the evidence will be confined to that ?

'Mr. CARVELL.—Oh, no.'

Now it is argued that because Major Hodgins thinks fit to say that he does not want to pursue this matter, therefore, we are to abandon it. But at that time it was suggested that even if he limited his charges, the evidence would not be confined to that. You will notice that Mr. Carvell declares 'Oh, no,' and then Mr. Macdonald made the statement 'Do not worry about that.'

Mr. MACDONALD.—Certainly. The major has not asked to limit his charges but he has abandoned the whole of them.

Mr. LENNOX.—Mr. Chairman, I must appeal to my honourable friend not to interrupt.

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Mr. Macdonald.—I object to my honourable friend misrepresenting my position or trying to argue that I ever took a position similar to the one that he is taking now. I absolutely disclaim it.

Mr. Lennox.—I do not know that my honourable friend makes it any better.

Mr. Macdonald.—It would be fair and manly for you to say that you are mistaken in the language.

Mr. Lennox.—I submit that my honourable friend has no right whatever to make that remark. I have been manly to the extent of reading just what is on the record almost without questioning the honesty or fairness of their intentions. I claim the same consideration for myself. I think I may consider myself to be fairly honest but I will not put myself in contrast with any of my honourable friends.

Mr. Macdonald.—The matter has not reached that stage. I must confess that I do not see what your position is.

Mr. Lennox.—My honourable friend is either very obtuse or else I have failed to express myself clearly. The question referred to us is whether the classification on the Transcontinental Railway is too high or whether it is right. That was the matter referred to us.

Mr. Macdonald.—Nothing else?

Mr. Lennox.—Not the question what Major Hodgins will substantiate or fail to substantiate, but to find out whether the bills sent in for work on this railway are too large and the country being robbed. That was referred to us at a time when all that existed with reference to this arbitration was well known, when every step with reference to it, so far as we have any evidence, had been taken as far as it is to-day; and there is no argument that could be advanced to-day in favour of leaving this matter to arbitration than was present to the mind of the Premier when he referred this matter to us.

Mr. Macdonald.—We are not as yet very much clearer as to what Mr. Lennox is trying to show.

Mr. Lennox.—I do not want to try and force conclusions into my honourable friend's mind. I will try and lodge them somewhere else though, (reads),:

'The Chairman.—We will have the right to examine Major Hodgins on the rest of the charges which he may drop, even if he does not prefer them.

'Mr. Parent.—As far as we are concerned we would like to go through the whole of the charges contained in these newspapers.

Mr. Hodgins.—Let me say that I have not asked to drop any charges. It may happen that when Major Hodgins prefers his charges there may be omitted matters which have been referred to us. Nevertheless although he may not claim to be able to establish it, we can investigate the matter, as it has been refered to us.

'The Chairman.—I understand the fear entertained by Mr. Parent to be this: These charges having been printed in the newspapers and circulated all over the Dominion it would not be fair that any of the charges or points dealt with in the newspaper articles should be dropped altogether.

'Mr. Barker.—Oh, no.

'The Chairman.—I understand it to be the feeling of the committee that they should not be dropped.

'Mr. Hodgins.—I desire to repeat again that that is Mr. Parent's suggestion, not mine.

'Mr. Lennox.—We will allow nothing to be dropped.

That concluded the whole matter. So that I submit whatever difficulty may arise between us now as to our powers, a reasonable interpretation of the language I have read would be: First, that the proper construction of the order of reference is that we shall investigate the question of classification on the Transcontinental Railway, without going into any distinction as to how or with whom, the charges arise and dealing only with such engineering questions as are necessary and incidental to a finding on the question of class-

ification as a question of fact; in a word, whether more is being charged and paid for upon the line than ought to be charged for and returned and paid. Now that is the scope of the reference. That I submit, from the quotations I have read, was the attitude of members of this committee when the investigation began. Now, questions of very great importance with respect to classification not only on the Quebec division, but also on the western division of the Transcontinental Railway, have arisen; that is perfectly apparent from the correspondence that was brought down and placed before the committee. Upon that point I do not wish to delay the committee, because I think my friend Mr. Barker will refer to some of the letters dealing with classification, further than that I want to refer briefly to the question of arbitration. Let me say that on the 28th April, when this matter was being referred to us, the question of a reference to arbitration was then in existence just as much as it is to-day. The Prime Minister, and presumably every member of the House, knew of that fact as well as we know it to-day. There was the agreement of the 10th January by which it was provided that certain questions, as between the Grand Trunk Pacific and the Transcontinental Commission, should be determined by arbitration, doubtless acting under clause 7 of the main contract between the company and the government. With that knowledge the Prime Minister saw fit to move, and the House saw fit to agree, that this matter should be referred to us to investigate. What right, therefore, have we to take the suggestion of Major Hodgins that he thinks it would be better to have this question investigated by experts? What right have we to accept this suggestion that he thinks this matter could be better worked out under the provisions of section 7, or what right have we to adopt the suggestion of any other person in that respect, when the Order of the House of Commons was that we should, notwithstanding those facts, go on and investigate? And aside from that is there not another reason why this matter should be investigated by us? This inquiry is a matter between the people and the commission on the one side and the contractors on the other. The reference provided for by the contract of the 10th January is a question not between the people and the commission, but between the commission, representing the country, and the Grand Trunk Pacific Railway Company. The question here is an entirely different one. In the matter referred to us the railway company have no right to intervene. In this case the Railway Commission are upon trial. In the other case they will, or should, be active parties asserting the interests of the country. The contrast is as great as can possibly be drawn. There can be no more distinct contract than is presented by a view—a very brief view—of the situation such as I have just indicated.

Mr. CARVELL.—I do not want to interrupt you in this speech that you are making but would it not be better to discuss this matter in the light of what we can do? Later on we can make our speeches.

Mr. LENNOX.—Well, I do not know that. I have not been intentionally doing anything wrong.

Mr. CARVELL.—I do not charge that you are.

Mr. LENNOX.—I am not intentionally going astray.

Mr. CARVELL.—You can repeat the speech in the House and there obtain wider publicity and a better audience.

Mr. LENNOX.—It would perhaps meet the case if I spoke in a lower key.

Mr. CARVELL.—I am afraid you are departing from the judicial attitude that you wished to pursue.

Mr. LENNOX.—I will get down to where we ought to be. I repeat that in the one case the investigation is one in which is the commission is ranged on one side and the railway company on the other. In that case the commission necessarily is acting for the people. In this investigation the commission—I do not mean at present that they are subject to any damaging innuendoes—are on trial and the trial is to find out whether or not over-classification prevailed upon the railway line of which they have the management and control.

Now, I come to the question of the reference and the provision which has been

read out to us, clause 7. I said the other night when I heard the clause read, that I was not sure that it in any way covers, or could possibly cover, the matter that we are now dealing with. I have found out since by reading the documents produced that that view is entirely sustained by weighty legal authority and was recognized evidently by the commission long before this investigation took place. Section 7 of the Act for the construction of the Transcontinental Railway reads as follows (reads):

'In order to insure, for the protection of the company as lessees of the eastern division of the said railway, the economical construction thereof in such a manner that it can be operated to the best advantage, it is hereby agreed that the specifications for the construction of the eastern division shall be submitted to, and approved of by, the company before the commencement of the work, and that the said work shall be done according to the said specifications and shall be subject to the joint supervision, inspection and acceptance of the chief engineer appointed by the government and the chief engineer of the company, and, in the event of differences as to the specifications, or in case the said engineers shall differ to the work, the questions in dispute shall be determined by the said engineers and a third arbitrator, to be chosen in the manner provided in paragraph four of this agreement.'

Now this provides for two things: In the event of differences arising between the two engineers as to 'the specifications,' or in the case of engineers shall differ as to 'the work,' then there shall be a reference. Now what is the meaning of 'differences as to the specifications?' It means that in order that there shall be a workable road—as is said here 'economical construction thereof in such a manner that it can be operated to the best advantage'—the company is given a voice in the framing of these specifications. Their engineers are to consult with the engineers of the Transcontinental Commission as to whether the specifications should be this or that and of what standard the road shall be; what the class of road shall be so that it can be economically and advantageously operated. That is the first point and if they differ as to that before the work commences that is to be determined by reference as provided. The other point is, as to whether or not, as a matter of fact, the work, when it is built or is being built, has been built or is being built in accordance with the terms of these specifications as they are worded and nothing else.

Mr. BARKER.—Is the work being done?

Mr. LENNOX.—Is the work being done according to the plans, is it up to the standard provided in the specifications? First it is determined what the requirements shall be, what class of road is to be built. secondly the company is to have a voice in saying whether it is built in that way or not.

Mr. MURPHY.—Will my learned friend permit me to ask him a question?

Mr. LENNOX.—Yes.

Mr. MURPHY.—Do I understand you to argue that in the preparation of the specifications, when they reached the stage that they shall be submitted to the company, if there is a difference then between the company and the Transcontinental Railway Commission, that difference would be submitted to arbitration?

Mr. LENNOX.—To arbitration as I understand it.

Mr. MURPHY.—As to the text?

Mr. LENNOX.—As to the text. That is determining the standard of the road, and if there is a difference as to the standard that must be determined before the commencement of the work. The other point is as to whether, when the work is being done or after it has been done, it has been built according to what is there defined. If that argument is right then it becomes an absolute absurdity to argue that such a reference covers the matter we are here dealing with. Now, sir, I find in the papers brought down, a letter from contractors Macdonald and O'Brien complaining of the interference of the Grand Trunk Pacific Railway Company and they point out, in what seems to be a very elaborate way for contractors and in a lengthy legal argument, that the construction of the statute is on the lines I have been arguing, and that the company have no right to intervene at all. I am not interested in that point

just now. However, the matter was referred by Mr. Ryan, under the authority of the commission, to Mr. Atkinson, the law clerk, and the latter gives this construction of the law which I propose to read. Let me say, before I do read the letter, that I am not going to argue that on the construction of section 7 the question of ultimate cost may not come in upon a liberal or strained construction of the section. I believe that was probably one of the objects in view at the time of framing it, but I am prepared to say, without any qualification, that it is not the legal construction of the clause, and that although the country will no doubt accede to that proposition when the time comes and must do so in order to keep faith with the railway company, it is not the legitimate construction of that clause and never would cover it in a court of law if it came to a matter of litigation.

Mr. MACDONALD.—When the engineers differ as to the work, that is to be referred.

Mr. LENNOX.—I am going to confine myself to the reading of this letter. It is better expressed, perhaps, than I could put it. It was my idea when I gave some attention to this point first and I was very pleased at finding this letter.

Mr. MACDONALD.—It is a good thing to have a case.

Mr. LENNOX.—The letter is as follows (reads) :

'OTTAWA, Nov. 7, 1907.

P. E. RYAN, Esq.,
Secretary.

DEAR SIR.—Yours of the 4th instant with copy of letter from Contractors Macdonell and O'Brien, dated October 31st, ult., has been considered, and in reply beg to report that I concur with the view taken by the contractors so far as it concerns the rights and powers of the engineers of the Grand Trunk Pacific Railway Company, in relation to the question of classification under the contract and specifications as between the contractor and the commissioners. The letter is evidently the production of a lawyer who has carefully analyzed the Act.

I might say, however, that after the specifications have been agreed on and the contract for the work entered into, they are annexed to and form a part of the contract. Section 7 of the Act provides that 'the said work shall be done according to the said specifications.' Paragraphs 33 and 35 of the specifications provide that classification shall be under the control of the engineer, that is, the engineer as defined in clause 2 of the contract, namely: The chief engineer of the commissioners, he and his assistant engineers are invested with full powers in regard to classification, as between the contractor and the commissioners.

The Grand Trunk Pacific Company approved of the specifications before the work began, and then so far as the work is concerned its right is limited by the Act to supervision, inspection and acceptance through their chief engineer acting jointly with the chief engineer of the government, and which is a matter between the government and the company.

I can find nothing in the statutes or the contract whereby the company has a right to interefere in the matter of classification as between the contractor and the commissioners.

I do not agree with the opinion of the contractors that in the event of difference between the two engineers as to whether the work is carried out in accordance with the plans and specifications, that arbitration only could take place on the completion of the whole, or at least a section of the work. It might well happen that during the progress of the work differences would arise between the two engineers that would have to be settled by arbitration, otherwise the joint supervision and inspection would be comparatively futile.

I am, yours very truly,

H. ATKINSON,
Law Clerk.

The writer of the letter says that the first point in the statute was carried out before the work began, that is to say the form of specification was agreed upon. The

opinion was expressed that no arbitration could arise until the end of all the work. Mr. Atkinson does not agree with that. Furthermore, this clause should not, if his construction of the law is right, should not, and could not, be invoked for a matter such as we have here. I submit that we have not had brought down, although there has been an abundance of legal opinions in connection with this case, any legal opinion controverting that interpretation.

Now there are a number of papers which ought to be referred. I do not know whether all the members of the committee have been carefully following and reading the documents laid before us from time to time. If not, they do not realize, and cannot realize, what an enormous, what a vital, question is at issue here; what an enormous amount there is at stake in this investigation. The position, as I submit, is this: before the money is paid to the contractor, before the injury has been done, before the loss has been sustained let us take the step that will put us right. Let us find out whether there is or is not improper classification on the Transcontinental line. It is in the interest of the people. Let us find out incidentally whether those who have been placed in charge should be in charge. Some of my honourable friends say that this is a matter in which the engineer is all powerful but if that is the case it is all the more important that we should know whether our rights are being protected or not, whether, as a matter of fact, enormous over-classification exists on that line or not.

Mr. MACDONALD.—Would not the decision of the Board of Arbitration, if it is a board under section 7 to determine the amount the country has to pay, in any event, as a matter of fact, be law? I think so, and I think it would be maintained by the courts of the country.

Mr. LENNOX.—If there is an arbitration, such as my honourable friend speaks of, between the Grand Trunk Pacific and the Railway Commission, it is merely to determine what interest shall be paid. The contractors are not parties to that and they are not bound by it; and if the chief engineer of the Transcontinental Railway Commission has once certified improperly that an item shall pass, there is no power in this country that will prevent the contractor from recovering the money. There is no power that will prevent its recovery for this reason: the contract says the certificate of the engineer shall be final, and some of my honourable friends on the committee have invoked it as an argument. I want to turn it in the other direction and show you that the determination of this question between the Grand Trunk Pacific and the Transcontinental Commission does not decide what we ought to do and does not restore to the treasury the money which has gone and has been going, according to the evidence given here, under circumstances which at least call very distinctly for an investigation, which call for us, as I submit, to be on the alert now and to prevent this evil, if it has existed, from going on any longer. If we go on paying this money, under the certificates of the resident engineer and the various engineers, who come in between him and the chief engineer, and on the certificate of the chief engineer, when the money is paid there is no power that can recover that money even if these contractors all remain solvent. If it is found that $28,000,000, or half of that sum, or any amount at all, has been over-paid, the country will be at the loss, and it will not relieve the people at all that in the arbitration between the commission and the Grand Trunk Pacific that item is reduced. It is too much to hope that after my friend, Mr. Barker, has also called attention to the evidence that has been submitted and the documents that have been produced, we will have a majority of this committee in favour of going on with the investigation? It is what parliament expected us to do, it is what the country expects us to do, and it is what we should do. It may be a difficult matter, it may involve a great deal of work, but I think that having undertaken this investigation we certainly ought to go on and complete our work.

Mr. CARVELL.—I know you gentlemen will not listen to a long legal argument from me in reply to my learned friend and I am not going to inflict one upon you. I wish, however, to point out some of the inaccuracies, as I view them, in his very lengthy

and somewhat legal argument. My honourable friend has read an opinion submitted to the Transcontinental Railway Commission on the 7th November last, as a justification for the position which he takes in which the law clerk claims, among other things, that the board of arbitration has not the broad rights over the question of classification that the Grand Trunk Pacific Railway Company maintain they have. I am bound to say as I read the statute I would not come to the same conclusion as Mr. Atkinson does. I say it with all due deference to Mr. Atkinson, a gentleman whose ability I recognize and appreciate very highly. Still I cannot construe the statute exactly as he does. However, that has very little to do with the case because for fear that might be the proper construction of the contract, a new contract was entered into shortly afterwards, on the 10th January, 1908, between the commissioners and the Grand Trunk Pacific by which they absolutely prevented——

Mr. BARKER.—Read the first line of the contract.

Mr. CARVELL.—By which they absolutely prevented any possibility of loss occurring to the country through the proper or improper construction of this contract and in this second contract of the 10th January it is provided as follows: (reads):

'Monthly estimates for contractors'—

Mr. BARKER.—Oh, no, please read it from the beginning.

Mr. CARVELL.—'Memorandum of Agreement to be drawn up'——

Mr. BARKER.—'To be drawn up.'

Mr. CARVELL.—Certainly, what in the world are you talking about?

Mr. BARKER.—Talking about English. That is an agreement to be drawn up.

Mr. CARVELL.—If that is not splitting hairs I don't know what you call it. Does Mr. Barker mean to say this contract is not in existence?

Mr. BARKER.—It is good enough as far as it goes.

Mr. CARVELL.—There is a document exactly in these terms signed by the two bodies. If you want it we will produce it.

Mr. BARKER.—I think it is very important myself.

Mr. CARVELL.—I don't think my honourable friend is doing himself justice. I want to know in the first place does he think the commission would produce a document that they put forward as a memorandum of agreement that never was completed? If he does let us stop right now.

Mr. BARKER.—I ask you to read what is in it.

Mr. CARVELL.—I will read it but I will ask my honourable friend to be fair.

Mr. BARKER.—I want you to be fair.

Mr. CARVELL.—My honourable friend is not out on the stump, for which he is irresponsible, but here on an important committee. He is saying something that I think he will consider on reflection he should not have said.

Mr. BARKER.—I objected to you beginning to read in the middle of an agreement.

Mr. CARVELL.—I will state here on my reputation as a member of this House that this is an exact copy of an agreement which exists. I have never seen the original itself, but I will state that. If I cannot produce it to my honourable friend I will withdraw what I have said.

Mr. BARKER.—I do not dispute that the agreement exists but I object to your reading only half of it.

The CHAIRMAN.—I suppose Mr. Carvell has a right to read it as he pleases and then you, Mr. Barker, can read it afterwards.

Mr. BARKER.—The honourable gentleman is reading as an agreement entered into, an agreement that professes to be entered into.

Mr. CARVELL.—I am going to read it anyway and then my honourable friend can discuss it. He can deny its existence if he wishes to.

Mr. BARKER.—I do not deny its existence.

Mr. CARVELL: (Reads):

'Monthly estimates for contractors shall be submitted promptly from time to time by the chief engineer of the commissioners to the company's assistant chief engineer at Montreal for approval. If he has any objection to such estimates he shall promptly

file the same with the chief engineer of the commissioners, and any objections from time to time filed shall thereupon be considered and, if possible, determined by the said engineers, and in case of their failure to agree, may then or at any time before or at the time of the final payment, at the option of either party, be considered and determined by arbitration as provided in the agreement of the 29th July, 1903, but in no case shall the payment of monthly estimates be delayed except with the consent of the commissioners.

'In case the chief engineer of the commissioners and the assistant chief engineer of the company disagree as to the final payment, the same shall be withheld until the matter is determined by arbitration as provided in the said agreement of 29th July, 1903.'

Mr. BARKER.—Who signs that?

Mr. CARVELL.—The initials on the side of the sheet are 'C. M. H.' That would be C. M. Hays. 'H. D. L.', that would be H. D. Lumsden. 'S. N. P.', that would be S. N. Parent, chairman of the commission.

Mr. LENNOX.—I would like to ask Mr. Carvell a question. I would like to know from him, as an able lawyer, whether he thinks, assuming that agreement to be just as he finds it, that the chairman of the commission, or the commission as a whole, has any power whatever to make such an agreement? As a matter of fact are their powers in dealing with this railway company not confined to the statute that we passed?

Mr. CARVELL.—I will answer that by asking another question. If the commission do make an agreement like this and stand by it, is the country damaged any?

Mr. LENNOX.—It may be very greatly damaged.

Mr. CARVELL.—Then I will take issue with you. As I said some time before the interruption of my honourable friend——

Mr. LENNOX.—You did not answer my question.

Mr. CARVELL.—If you want a categorical answer I say that I think they have a right to make the agreement. They have made the agreement and they are living up to it. It was made for fear the view of the law clerk might be correct that clause 7 of the original agreement did not provide for classification. Now, sir, we do not want to forget that by the statute creating this commission the contractor who enters into an agreement with them agrees that the certificate of the chief engineer shall be final. Therefore, that disposes of the whole mare's nest which my honourable friend, Mr. Lennox, has conjured up in his mind as to what would happen if these contractors were paid their money and the country would never get it back. It simply gets down to this, that the chief engineer of the commission is the sole arbiter between the commission and the contractors, all that he has to do if he finds over-classification has been reported for one month is to cut out an equal amount for the next month, or successive months thereafter, as soon as the amount is determined, and the contractor has to accept the amount which the chief engineer awards to him for the month in question. In that way the over payment is withdrawn and the country is protected. That gets rid of the difficulties which my honourable friend Mr. Lennox has conjured up in his mind. Now, to go back just for a moment. My friend spent half an hour of our valuable time reading the opinions of different members of this committee at, I think, our first session as to the scope of this investigation, and he read the opinion of practically every member of the committee stating that no matter what Major Hodgins' counsel would include in his charge we were bound by the reference, we would not go beyond it, but would go to the full extent of the reference. But he did not read one word by any member of this committee as to what they considered was the proper scope of the reference, and I am a little disappointed in my honourable friend for taking that one-sided view. If he had referred to page 81 he would have found that I, as one member of this committee, stated what my views were as to the scope of the reference. I would ask my honourable friend to look it up while I read it. I took exactly the same view at the inception of this committee that I take to-day. I took the view then that this committee was not appointed for the purpose of

deciding whether the engineers were right in their classification, in their individual cases, or not. I take that position to-day and for the benefit of my honourable friend I will read what I stated. There had been a discussion going on at the sitting of the committee referred to as to whether Major Hodgins should give evidence at once or whether he should have time in order to get papers. A large bundle of documents had been produced here by the commission which, as a matter of fact, were copies. Major Hodgins stated that he did not think he could prefer his charges until he had the originals. I could not see the necessity for it but, however, in the course of the conversation this statement was made by myself at page 81. I will go back a few sentences (reads):

'Mr. HODGINS.—Do you suppose that any witness should be put in the box and denied access to the papers which would bear out the evidence he is giving?

'Mr. MACDONALD.—He knew enough to write a letter to the press and to make charges against people and he ought to be able to prove his charges.

'Mr. BARKER.—He wants the documents to prove what he says.

'Mr. CARVELL.—There are practically three or four branches to the charges contained in this letter. We are discussing entirely the question of classification which to my mind is very unimportant part of the matter because that has to be settled later on by arbitration. To my mind the point in this charge is that Major Hodgins claims he was dismissed from the service of the Transcontinental Commission because he would not classify as the commissioners wanted him to do. He does not require documents in the possession of the commission to specify that. He can say whether it is true or not.'

Now, that is exactly my position to-day. As I stated early in this sitting if any member of this committee, or any member of the House, wants to call witnesses to prove fraud or improper conduct on the part of any member of the commission or of their engineers, I do not think we ought to shut it off because that to my mind is the true intent or true meaning of Major Hodgins' letter, or charges if you so call them. That was in my mind at that time as the true object for which this committee was appointed. It is my opinion to-day and, therefore, I will stick to what I stated at the very commencement of this committee. I do not think it is our business to spend much or little time in investigating a matter upon which we cannot make a final pronouncement and on which the verdict may be changed two months or one month from now by the tribunal which has the power, according to the law, to say whether we are right or we are wrong. For these reasons I feel that this committee should not take up the time of members in calling witnesses to prove whether the engineers of the Transcontinental Railway or the engineers of the Grand Trunk Pacific company are right or wrong in their respective estimates as to the classification in any given instances.

Mr. BARKER.—I would like to say a few words, Mr. Chairman, on the question of this proposed arbitration. I will endeavour to be as brief as possible and to confine myself to reading a few letters, or extracts from a few letters that show just how much this arbitration amounts to thus far. The other day Mr. Murphy referred to this arbitration as an existing fact and Mr. Carvell this afternoon produced a document containing a memorandum of agreement intended to be entered into.

Mr. CARVELL.—Do be fair and say agreement.

Mr. BARKER.—The words are exactly as I say them—intended to be entered into.

Mr. CARVELL.—You are not doing yourself justice.

Mr. BARKER.—I will take care to do myself justice, you need not bother about that (reads):

'Memorandum of agreement to be drawn up between the commissioners of the Transcontinental Railway and the Grand Trunk Pacific Railway Company.'

I only wish to read what is on the paper, not to put my interpretation on it. That paper is initialed by three gentlemen, whether by the authority of those they purport to represent or not, does not appear. I do not know that Mr. Hays by putting his

initials to a document binds a corporation. I do not know that the Honourable Mr. Parent by putting his initials to a document binds anybody at all but himself. I will refer now to a letter produced by the commissioners dated on the very day that this subject was referred to us by the House of Commons. There is a letter from the assistant chief engineer of the Grand Trunk Pacific adressed to the chief engineer of the Transcontinental Railway Commission which reads as follows (reads) :

'MONTREAL, QUE., April 28, 1908.

Mr. HUGH D. LUMSDEN,
Chief engineer, Eastern Division,
National Transcontinental Railway,
Ottawa, Ont.

DEAR SIR, This is to acknowledge receipt of your letter of April 24th, in regard to classification given on Districts 'B" and 'F,' wherein you say you would like to set a date, as soon as possible, when you could confer with me, either in Ottawa or Montreal, so as to arrange dates for arbitrating the points in dispute and for the appointment of a third arbitrator, &c.

In reply thereto will say that the action you propose cannot be taken until after you have complied with my request of October 7th, which, as you will recall, has been several times repeated, that you and I personally make an inspection of those portions of the work on Districts 'B' and 'F' where it is claimed improper classification has been made.

Kindly let me know when it will be convenient for you to make this inspection, and I will place myself at your disposal.

Yours truly,

H. A. WOODS,
Asst. Chief Engineer.

You will note, Mr. Chairman, the significance of the statement contained in the foregoing letter, from which it appears that these proceedings have been going on ever since the trouble with Major Hodgins.

Mr. MACDONALD.—That is eminently proper. That is proceeding under the arbitration and preliminary to the appointment of a third man.

Mr. BARKER.—You need not interupt. I was going on to say that this is an eminently proper letter from the assistant chief engineer of the Grand Trunk Pacific to the chief engineer of the Transcontinental Commission pointing out to him——

Mr. LENNOX.—That nothing has been done.

Mr. BARKER.—Until they differed there was nothing to arbitrate.

Mr. MACDONALD.—Until they differed there was no necessity to appoint a third man.

Mr. BARKER.—We were told the other day that we could not act until this matter had been referred to arbitration.

Mr. MACDONALD.—It has.

Mr. BARKER.—It has not because they have not disagreed as you will see by this, as you say, eminently proper letter.

Mr. MACDONALD.—I do not want to break the continuity of your argument but if you will look at section 7 of the agreement, you will find that it contemplates these two engineers shall proceed to deal with the work and in the event of their disagreeing on certain items, a third man shall be appointed. The arbitration is formed the moment these two gentlemen enter upon their duties and their finding would settle the matter without a third party.

Mr. BARKER.—That is absurd if you will allow me to say so. It is absurd to say that every time these two gentlemen, going as they go to inspect a property, that you can look upon it necessarily as an arbitration, because they may not agree. This

eminently proper letter, as you say, points out that before they can appoint a third arbitrator they must know whether they can agree.

Mr. MACDONALD.—Supposing there were 50 differences and these two gentlemen settled 45, the third man would only be called in for the 5 unsettled differences. Yet their determination of the 45 would be the arbitrators' act.

Mr. BARKER.—Why would they assume they would not agree upon everything? Mr. Woods says that since October he has been asking Mr. Lumsden to go over portions of the work with him.

Mr. MACDONALD.—Yes, but they have gone; they have been out over the work.

Mr. BARKER.—They had not up to the 23rd April when this matter was referred to us.

Mr. MACDONALD.—They have gone to look into these matters and they are determining them.

Mr. BARKER.—You are talking of something that might have happened but of which there is no evidence.

Mr. MACDONALD.—And if these two gentlemen agreed there was no need to call in the third man. That is the ordinary A B C principles of determining disputes. The third man is called in only when the other two do not agree.

Mr. BARKER.—That is all I want to say upon that particular point. Now I want a letter of 8th October to go in:—

MONTREAL, QUE., Oct. 8, 1907.

Mr. HUGH D. LUMSDEN,
Chief Engineer,
Eastern Division,
National Transcontinental Ry.,
Ottawa, Ont.

DEAR SIR,—Referring to my letter of the 7th instant *re* classification of material on section 'B' please correct error in item: Station 5842 to 5860. Classified 94 per cent solid rock, 6 per cent loose rock, slopes taken out 1½ to 1. Solid rock over classified at least 100 per cent, instead of loose rock as mentioned in my letter.

Kindly make correction and oblige.

Yours truly,
H. A. WOODS,
Asst. Chief Engineer.

The next letter to which I would draw notice is one of 14th February, 1908, from the assistant engineer of the Grand Trunk Pacific to the chief engineer of the Transcontinental Railway Commissioners as follows:—

MONTREAL, QUE., Feb. 14, 1908.

HUGH D. LUMSDEN,
Chief Engineer,
Eastern Division,
National Transcontinental Ry.,
Ottawa, Ont.

Re Classification.

DEAR SIR,—Referring to correspondence and conversations on this subject, I understand that you have recently issued instructions to your District Engineers relative to same. Will you be good enough to send me a copy of these instructions so that my assistants may know just what to expect with regard to classification while going over the work?

From reports received from our district engineers 'B' and 'F' we understand that, in their judgment, the work in places is largely over classified, particularly in borrowed material and in cuttings of mixed materials, where no ledges exist. Would it not also be possible that resident engineers, in returning estimates, should show in cuttings the amount of material found in ledges, also the amount of material classi-

fied as solid rock and boulders what I understand you term 'assembled rock'? If this could be done I think it would be of advantage, not only to us, but would give you information in your office which would be of great use to you in questions arising between this company and the commission.

Yours truly,

H. A. WOODS.
Asst. Engineer.

I would also draw attention to the following letter from the same to the same.

MONTREAL, P.Q., Feb. 20, 1908.

HUGH D. LUMSDEN,
Chief Engineer,
Eastern Division,
National Transcontinental Ry.,
Ottawa, Ont.

DEAR SIR,—I beg to acknowledge receipt of your favour of the 17th instant, file 7787, giving your interpretation of clauses 34, 35 and 36 of our specifications, with blue prints and explanation of same, also copy of your instructions to your engineers.

We are quite satisfied with your interpretation of the specifications and with your instructions, which are explicit. I do not know the date of these instructions or when they are supposed to become effective, but, from reports from my assistants at Winnipeg and Quebec, there does not seem to have been any change in classification of work previously reported, the percentage of classified material being steadily increased.

We are satisfied that on some parts of the work previously estimated was not classified according to your recent instructions, being over estimated in both loose and solid rock. The attention of your district engineers has been called to the fact but apparently without effect. If your instructions were effective when the January estimates were made we certainly will have to object to the classification as rendered on certain parts of the work.

Yours truly,

H. A. WOODS,
Asst. Chief Engineer.

This letter also shows over classification.

Mr. CARVELL.—We ought to cut this short. Nobody is denying for a moment that differences of opinion have arisen between the Grand Trunk Pacific Engineers and the engineers of the commission. We are not denying that and the commission admit it.

Mr. MACDONALD.—You are not reading these letters with the idea of showing there is anything improper on the part of the commissioners.

Mr. BARKER.—These letters will not establish that.

Mr. CARVELL.—All these letters establish the fact that there is a difference of opinion, which is admitted by everybody including the commissioners, and there has been from the very beginning, and the chief engineers during the last two years——

Mr. MACDONALD.—Have been endeavouring to settle these very differences.

Mr. BARKER.—On March 24, 1908, there is a letter from the same to the same:—

MONTREAL, QUE., March 24, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer, Western Division,
National Transcontinental Railway,
Ottawa, Ont.

DEAR SIR.—I desire to acknowledge receipt of your favour of the 20th instant, together with contractors' progress estimates for the month of February, as follows:—

District 'B.'—Messrs. M. P. & J. T. Davis, mile 0 to 50, west of the St. Lawrence river; Messrs. M. P. & J. T. Davis, mile 0 to 150, easterly from the Quebec bridge; Messrs. Macdonell & O'Brien, mile 50 to 150, westerly from the Quebec bridge.

District 'F.'—Mr. J. D. McArthur, mile 0 to 245, completing returns for February.

In examining these estimates, I find no apparent change in classification since your instructions to district engineers of January 28, 1908. On the contrary, the percentages of classified material seem to be constantly increasing and are even higher than when we made our objections in September last.

I am quite aware that during the winter season it is natural that classified material shall run higher than at other times, as little earth work is opened, but I had hoped to see a reduction in classified material so reported prior to January last.

I have before me a detailed sheet showing classification as made on District 'B' and am surprised to find material classified as solid rock, which, if I am correctly informed, under your instructions could only be classified as loose rock. I also find very large quantities returned both as loose and solid rock in borrowed embankment. On the work east of the Quebec bridge a large amount was done with teams, side borrowed material, and yet the entire contract for the 150 miles only shows 25 per cent of the work done as common excavation. It appears also that the item 'assembled rock' No. 5 in your instructions, is made to cover most material where explosives are used in handling.

In excavations for foundations, where hard material is found, under this item it is classified as solid rock, giving the contractor three times the price usual for that material. Our district engineers are not satisfied with the classification as made. On District 'F' the objection lies in the first and second divisions.

It is impossible at this time to go over the work with a view of examining classification but, from reports from my assistants, I certainly must object to the classification as rendered being considered final and request that as soon as the season will permit, you accompany me over at least a part of the line, that I may have your views in regard to this most important matter of classification.

Very truly yours,

H. A. WOODS,
Asst. Chief Engineer.

On the 21st April, 1908, there is another letter from the assistant chief engineer of the Grand Trunk Pacific, Mr. Woods, to Mr. Lumsden, of the same general character giving particulars of over-classification:—

MONTREAL, P.Q., April 21st, 1908.

HUGH D. LUMSDEN, Esq.,
Chief Engineer, Eastern Division,
National Transcontinental Railway,
Ottawa, Ont.

DEAR SIR,—I desire to acknowledge receipt of your favour of the 17th instant, together with copies of progress estimates, eastern division, for the month of March, as mentioned therein.

There are few exceptions to be taken to these estimates, so far as I am advised, except to the classified material, which is constantly increasing, and the very large amount of over-break in solid rock cuttings, also increasing and representing in all a very large amount.

With reference to classification, I have to say that, in compliance with your request, I have directed my assistants to give me the location by stations and mileage of points where, in their opinion the classification, as rendered, is higher than it should be under your interpretation of the specifications, and your instructions to your assistants, dated January 30th last. I am in receipt of a letter from District Engi-

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neer Mann giving a list of the different divisions, District 'F,' where objections lie as to classification as rendered, copy of which I enclose herewith.

From this list you will note that he takes exception to the classification returned on nearly all of Division No. 5 except, perhaps some ten or twelve cuttings, probably wholly of solid rock. On Division No. 6, aside from solid rock cuttings, the objections are nearly as great as on Division No. 5. You will further note from the inclosed list that the larger proportion of over-classification is o nthat part of the line included in Divisions No. 5 and 6.

After his inspection late last fall, District Engineer Mann seemed very well satisfied with the classification on Divisions 7, 8 and 9, but he now advises that he thinks that classification is increasing on that part of the line and is now much too high. In his letter of transmittal of this list, District Engineer Mann writes as follows:—

'The classification varies greatly over this district. While in some cases the amount of loose and solid rock is not very greatly in excess, in others, where large amounts of the high priced material have been allowed, and only a small amount of common excavation, the proportion should be reversed. There is nothing in the estimates to show what is solid ledge. I have been asking for this information for several months, in fact, since September last, but have not yet received it. Will turn the question to you now and ask that I be furnished this information as soon as possible. so that I can have it on my next inspection trip over the line.'

From the enclosed list you will note that Mr. Mann makes objections not only to classification in cuttings but also to borrowed material. On mile 25, stations 1267 to 1280, there appears in this estimate a considerable amount of loose rock for the first time. Of the 25,000 cubic yards returned, 44 per cent is classified. Both Mr. Mann and Mr. Heaman claim that no classification should be given in this material.

We feel that this question of over-classification must be settled in the near future. Many of the sub-contractors will soon be completing their work and undoubtedly will receive final payment for same and if they are paid upon estimates as returned at present, general contractors will naturally object to any change in their estimates.

While I have no list like the enclosed from District 'B,' reports from my assistant indicate there that east of the river objections lie to the classification generally as returned. A very large amount of borrowed material through farming country has been returned as loose rock. Of the entire work done to date on this section 77·6 per cent is classified material, nearly evenly divided between loose and solid rock.

You will recall that in Sepember last we made great objection to the classification as returned west of the St. Lawrence river. Later, you visited a small section of the work, and, I think, have been in a position to decide upon at least that portion of the work for several months and still no action has been taken to change the estimates as then made or as since returned. We ask now that at the earliest possible moment you will visit each of these sections and make a decision on these points, that we may know whether further action will be taken.

Yours truly,

H. A. WOODS,
Asst. Chief Engineer.

There is another letter of the same general character, dated 23rd April, 1908, from Mr. Woods to Mr. Lumsden:—

MONTREAL, April 23rd, 1908.

Mr. HUGH D. LUMSDEN,
Chief Engineer, Eastern Division,
National Transcontinental Railway.
Ottawa, Ont.

DEAR SIR,—With further reference to our objections to classification on District 'B' and points at which we disire you to examine for purpose of inspection, I quote from District Engineer Armstrong's letter of the 21st instant:—

. . . . . As typical classification I would mention the following cuts on the contract east of the Quebec Bridge:—

Stations 7871 to 7878 Res. 4.
Stations 7086 to 7182 Res. 5.
Stations 6039 to 6051 Res. 7.
Station 6000 Res. 7.
Stations 3880 to 3890 Res. 10.

Almost any cut on residencies 10 or 11 will do. These examples are given not as being the only ones, but a visit to any one of these will show the classification given generally, and whatever agreement or disagreement is arrived at on one cut will apply to probably 75 per cent of the cuts on the whole work.

As examples of borrow with classification I may instance the following as examples: Mile 15 to mile 23.

The above for your information.

Yours truly,

H. A. WOODS,
Asst. Chief Engineer.

Mr. MACDONALD.—I do not see how you are going to put in these letters as evidence?

Mr. BARKER.—They have been produced.

Mr. MACDONALD.—In what way are you introducing these letters when we are considering whether this inquiry is to close or not?

Mr. LENNOX.—We are submitting them as a reason why the inquiry should not be closed.

Mr. MACDONALD.—It is a very adroit way of putting in evidence.

Mr. BARKER.—They are instances of these disputed questions and show that we should not close the inquiry. I want some letters from Mr. Morse to the Hon. Mr. Parent to go in:—

AT WINNIPEG, Nov. 12, 1907.

DEAR MR. PARENT,—Letter from Secretary Mr. P. E. Ryan, under date of October 18, noted, and during my absence Mr. Woods was requested to meet Mr. Lumsden in Quebec for the purpose of reviewing the work. I understand that this has been done. The object of this letter is to answer the second paragraph, page 2, in which the secretary states, 'In this connection' I am to point out that your District Engineer Mr. Armstrong failed to notify District Engineer Doucet of any disagreement with respect to the classification of material in district 'B,' &c.' and again 'although this procedure was distinctly irregular the commissioners have taken full cognizance of Mr. Woods' complaint, &c.'

The understanding when I had the pleasure of meeting you and the commission, was that the departmental matters would be worked out by the heads of the departments, and failing to agree same would come before your colleagues, Mr. Woods, and myself, and I consider up to the present time that there has been no violation of this. The fact of the matter is it is more difficult for Mr. Armstrong and Mr. Doucet to have meetings at times when such meetings are most urgent, and I think one of the best demonstrations of this is that upon the arrival of the

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chief engineer, Mr. Lumsden, and assistant chief engineer, Mr. Woods, at Quebec, for the purpose of going over this work, Mr. Doucet could not then devote the time to take the trip. I consider it was perfectly proper on Mr. Woods' part to take the subject up as he did with Mr. Lumsden. It was then optional whether Mr. Lumsden, on his own accord, met Mr. Woods and tried to agree on these points, and failing, referred the subject to the commission, Mr. Woods and myself, or whether the entire commission took it up with Mr. Woods alone at that time, which I understand they did.

We desire and intend to co-operate in matters as far as possible and expect to be met in the same way.

Yours very truly,

FRANK W. MORSE.

Hon. S. N. PARENT,
Chairman, Transcontinental Railway Commission,
Ottawa, Ont.

On February 8th there is another letter from Mr. Morse to Mr. Parent :—

MONTREAL, QUE., February 8, 1908.

DEAR MR. PARENT,—Upon receipt of your favour of the 6th, in which you advised that Commissioner Young and Chief Engineer Lumsden were en route west, I immediately took the subject up with Messrs. Kelliher and Woods, requesting them to instruct Mr. Mann to fully co-operate and discuss the situation as he views it with the gentlemen, when they are in Kenora.

I am more impressed each day with the seriousness of the delay in constructing the line between Lake Superior Junction West, also the business that will be created along our line which we will be unable to get beyond Winnipeg, especially in view of the fact that the two existing railroads cannot to-day take care of their own business.

I understand that Mr. McArthur feels, in having sub-let his contract, he has done all he can; that there is an entire absence of intelligent supervision, by his company, of the work and, while he has sub-let the contract, that men who have heretofore been stationmen and competent to handle only several thousand feet, have been given a number of miles.

I regret that you and the commission do not coincide with my views as to the serious condition of affairs are now in section 'F,' and, due to the fact that under the existing method of management, they cannot get any better, it is going to mean a tremendous financial loss to the Grand Trunk Pacific Railway, in addition to making it impossible to relieve the situation in the way of lack of transportation in the west at as early a date as we should.

Yours very truly,

FRANK W. MORSE.

Hon. S. N. PARENT,
Chairman Trancontinental Ry. Commission,
Ottawa, Ont.

On the 7th March there is another letter from Mr. Morse to Mr. Parent :—

MONTREAL, QUE., March 7th, 1908.

DEAR MR. PARENT,—On February 8th I wrote you regarding the condition of the work on Section 'F,' the portion contracted to J. D. McArthur, outlining the serious results that will ultimately be realized in a financial way by the Grand Trunk Pacific, and the lack of any relief to the people of Manitoba, Saskatchewan and Alberta when our line is completed through these provinces because there will be no outlet for the business we can collect at Winnipeg, in view of the fact that the existing railroads have not been able to handle satisfactorily their own business during the past winter.

Previously instructions had been given to Mr. W. E. Mann, district engineer at Kenora, to meet and discuss with Commissioner Young and Chief Engineer Lumsden whom you advised were en route to that point.

I have spoken to you since then regarding the great importance of relieving McArthur of this contract and putting it into the hands of a company versed in that sort of work and competent to handle it, and understood from you, that upon the return of Commissioner Young and Chief Engineer Lumsden you would have information that would enable you to determine what action you would take.

Not having had any further communication from you and the seriousness of the delay in completion of this section becoming daily more apparent, I write to ask if you will kindly let me know what, if any, action is being taken.

Yours very truly,

FRANK W. MORSE.

Hon. S. N. PARENT,
Chairman Transcontinental Ry. Com.
Ottawa, Ont.

Now these letters brought in by the commission do not always give the other letters to which they refer and it is desirable to put the latter in if there is no objection. We cannot tell whether the other letters have any bearing on the case because they are not here. I think that is all I have to say.

Mr. MACDONALD.—As there has been so much talking, avoiding the real question at issue, I do not want to prolong the proceedings further than to point out that my honourable friend Mr. Barker is, as usual, very ingenious and plausible in his argument. I understood him to argue that because the chief engineer of the Grand Trunk Pacific Railway wrote Mr. Lumsden several times asking him to come and confer with him and go over the work, that, therefore, there had been no arbitration under the agreement.

Mr. CARVELL.—That nothing was submitted to the arbitrators.

Mr. MACDONALD.—Certainly, the agreement under section 7 provides that these two gentlemen who are filling the positions under that section should first meet and go ever the work to see whether the classification adopted by the subordinate engineers was correct. If they agreed between themselves as to what the classification should be there was no necessity of appointing a third arbitrator. If they differed in any respects, a third arbitrator could be called in to deal with such cases as they differed upon. Now the fact is before us that Mr. Lumsden and Mr. Woods have gone out over Section 'F' of this line. They have looked at various divisions there and at this very moment they are performing the function which was contemplated would be performed by section 7 of the agreement and endeavouring to agree upon what the proper classification is, and in the event of their being unable to agree as to that, then the third arbitrator would be called in. In other words these gentlemen are now discharging the duty assigned to them and are going to arrive at some conclusion upon the differences which I understand my friends to be arguing this committee should engage in.

Mr. CARVELL.—And if any contractor has been overpaid there is lots of time and opportunity to protect the government.

Mr. MACDONALD.—As to whether the country is to be affected in any way by the situation on the work, the fact that these monies have only been paid on progress estimates gives ample and ocmplete powers to the commission to act in accordance with the decision of these two engineers and to retain from any contractors anything which they may have received on account of over-classification. The absurdity of the position suggested by my honourable friends will be recognized when we consider that at this very moment the two gentlemen who are appointed by statute are performing their statutory functions and they are bound to come to some conclusion on the matter. Upon that conclusion the accounts will be adjusted. At the same time, if the view of my honourable friends were concurred in, we would be taking up our time

in dealing with a purely academic question. I do not understand my honourable friends to urge that there is anything improper in the position of the commissioners in dealing with the engineers, so it is purely a question of a difference of opinion between these engineers as to what the classification will be.

Mr. LENNOX.—I do not want you to misunderstand our position. I am not going to charge any wrong doing without serious reason for so believing, but I do feel that there is set out in these letters sufficient to make it very very suspicious.

Mr. MACDONALD.—These letters are such as would pass between engineers representing different interests in connection with the construction of any railway in this country.

Mr. BARKER.—We admit that.

Mr. MACDONALD.—I do not know how one engineer could say to another that there was over-classification in a particular district without he used language such as is found in these letters. There is no way in which he could say there was over-classification or that he differed in his opinion with the subordinate engineers as to the classification that had been made. Now as to the point which my friend, my ingenious friend, Mr. Lennox, endeavoured to make that some of the members of this committee had taken a different view of the scope of the committee at the beginning of the investigation, I think I may be permitted to read one or two sentences which will be found at page 79 (reads):

'Mr. MACDONALD.—I hardly follow my friend, Mr. Barker, in his observations. I apprehend this committee is here to investigate something that Major Hodgins has got to say about the Transcontinental Commission. I apprehend that Major Hodgins has got to prove what he said or take it back. That is the usual way when men make charges.

'Mr. BARKER.—Yes.

'Mr. MACDONALD.—I apprehend further that the proposition made by Mr. Barker is that the commission should hand over anything and everything to Major Hodgins right off the bat.

'Mr. BARKER.—I never said that.

'Mr. MACDONALD.—That is practically what you said.

'Mr. BARKER.—I said the commission should produce the papers to us here.

'Mr. MACDONALD.—And I say that if Major Hodgins makes charges he must prove them. He cannot come to this committee and hunt around to find justification for statements which he has made.

'Mr. BARKER.—He is going to put in his charges before he sees the papers.

'Mr. MACDONALD.—Major Hodgins on April 16, when he made certain charges in the Victoria 'Colonist' either had evidence to prove those charges or he had not, and if he did not have the evidence he had no business to make the charges.'

Then Mr. Barker said 'That is ridiculous.'

Mr. BARKER.—It was ridiculous to say that when a man makes charges, if you have got the papers to establish those charges that you are not obliged to produce them.

Mr. MACDONALD.—I see. That is what you meant. That it would be ridiculous that he should not have the papers (reads):

'Mr MACDONALD.—I say that a man has no right to make a charge against a public man in this country——

'Mr. LENNOX.—A man can always make a charge which he has good reason to believe or which he knows that he can prove.

'Mr. MACDONALD.—Do not interrupt me, please. What I was going to say in regard to that subject is this: the onus of proceeding in this inquiry and of proving the case in on Major Hodgins and his counsel, and when they start in to prove their case I assume this committee will direct the production, as we proceed, of any matters which they indicate are necessary for them to prove their charges. But we would not be doing our duty as a tribunal respecting either the character or position of any

public man against whom any charge is made, unless we put the onus of the proceedings in regard to these charges, which is the primary object of this committee, upon the gentleman who made them.'

That was my position at the beginning; it is my position now; and as Major Hodgins has abondoned and withdrawn his charges the functions of this committee, so far as the reference to us is concerned, are in my judgment fulfilled.

Mr. BARKER.—With your permission, Mr. Chairman, I would like to show the importance of the other questions that are raised, outside of Major Hodgins altogether, in matters that he could not know anything about. I will take Mr. Woods' letter of October 7th, 1907, to Mr. Lumsden at the time when all this trouble with Major Hodgins occurred (reads):

'Station 5842 to 5860'—that covers 18 stations—'classified 94 per cent solid rock, 6 per cent loose rock. Slopes taken out 1½ to 1.'

That is the way it has been classified in the estimate. A slope of ½ to 1 means that in the solid rock cutting you would have to have 1½ slope. Now, here is what he says about that (reads):

'Solid rock over-classified at least 100 per cent.'

Nothing that Major Hodgins ever said equals that (reads):

'Station 5866 to 5875. Estimated 80 per cent solid rock, 20 per cent loose rock. No rock in place in this cut. Many large boulders, but a large amount of earth.

'Station 5882 to 5901. Estimated 78 per cent solid rock, 22 per cent loose rock. A large amount of this cut wasted with slip scrapers and plowing being done with two horses. There are hundreds of yards of earth here without a stone, large or small.

'Station 6030 to 6046. Estimated 40 per cent solid rock, 10 per cent loose rock. This is a large sand cut west of O'Brien's camp. Of the 95,000 yards moved to August 31st in this cut, at least 80,000 yards was pure sand.'

Mr. MACDONALD.—Mr. Lumsden and Mr. Woods will have to determine whether that division engineer classified correctly.

The CHAIRMAN.—I may perhaps be allowed to say a few words in this legal and technical debauchery.

Mr. CARVELL.—You are certainly a long suffering chairman.

The CHAIRMAN.—I will be very short. My view of this question is this: this is a special committee, differing from a permanent committee to which different questions necessitating prolonged investigations are referred. To this committee has been referred a special matter. This special committee, in my opinion, has been appointed to investigate a certain matter and we have to be guided by the order of reference, which for me is the only guide as to the length to which we may go. The order of reference has been read several times, but I desire to read it once more. In that order of reference we find the principal matter which was sent to us for investigation is the letter of Major Hodgins to the public press. The other things which are mentioned in the order of reference, as I read it, are of secondary importance, because if Major Hodgins' letter had not been written and had not been published in the public press the memorandum of Mr. Parent, chairman of the Transcontinental Railway Commission, would not have been read and transmitted to the House. Now, the order of reference says (reads):

'That the memorandum of the chairman of the Transcontinental Railway Commissioners to the Prime Minister of date the 23rd April, and laid on the Table of this House on the 24th instant, and the papers accompanying the same'——

which as I said a few minutes ago was written because a certain letter har been sent by Major Hodgins to the public press—..

'together with the letter of Major Hodgins to the public press therein referred to, be referred to a special committee of five members, with instructions to investigate the matters and charges therein mentioned,"——

Mentioned in what? There were no charges in the memorandum of the chairman of the commission to the House. The matters and charges therein mentioned

were evidently, according to my view, embodied in the letter of Major Hodgins. It could not be the interview in the Vocitoria 'Colonist,' or the other newspapers which had repeated the charges, because they have been repudiated by the Major. According to my opinion, therefore, we have before this committee only one thing to investigate; the accusation, or charge, if I may call it, of wrong-doing contained in a letter which Major Hodgins has published in the Victoria 'Colonist,' and nothing else. If you take out that letter there is nothing left. Supposing the Major had repudiated that letter frankly and honestly, as he has now done, before the constitution of this committee, there would have been no committee at all.

Mr. MACDONALD.—Hear, hear.

The CHAIRMAN.—No committee would have been necessary, everybody would have been of opinion that there was nothing to investigate. It is not the memorandum of the chairman of the Transcontinental Commission, who denies the accusation contained in the letter, that we are to investigate; it is the letter containing the charges of Major Hodgins against the commissioners. Now that the Major has frankly and honestly admitted that he made those charges under a misapprehension, I suppose, I take it there is nothing before this committee to investigate. There is, of course, the great question of classification which has been so much talked about. Well, in constituting a tribunal to decide differences between the engineers of the Grand Trunk Pacific and those of the Transcontinental Commission, it had obviously been foreseen that some differences necessarily would arise between the engineers. It would be impossible that some difficulties should not arise in the carrying on of such an important work as the building of a transcontinental line of railway. This tribunal, according to my view, has been properly constituted and is the proper authority to decide differences of opinion as to classification between the engineers, those of the commission on the one hand and those of the Grand Trunk Pacific on the other. Let us take another phase of the question. The Major having withdrawn his charges, as he said yesterday, there is nothing before this committee to investigate. Supposing any gentleman now in this room should rise and make a charge of wrong-doing or fraud against the commissioners. This committee could not investigate such charge because it has not been referred to us by this special order of reference. In my opinion there is only one thing to investigate and a proper tribunal has been appointed for that purpose. It is all very well to enter into lengthy technical and engineering discussions such as we have had this afternoon. The only thing which has been referred to us is the letter charging the commissioners with wrong-doing, which letter with its accusations, has been withdrawn by the only person responsible for it, Major Hodgins. Now it seems to me there is nothing left for this committee but to declare that the charges have not been proven. This in brief is my opinion. The matter has been so ably discussed by the other four members of the committee that I do not think I am called upon to enter into any more details.

Mr. CARVELL.—Mr. Chairman, there is still the question which has not been disposed of about releasing Major Hodgins from further attendance.

The CHAIRMAN.—I have already asked the committee what should be done in that matter.

Mr. BARKER.—Do you mean that matter should be disposed of before the chairman has given his decision?

Mr. CARVELL.—The chairman has given his decision.

Mr. BARKER.—We have the right to vote upon that.

Mr. LENNOX.—I suppose there will be a motion that the proceedings do now close or something of that kind?

Mr. CARVELL.—I do not think so. Perhaps Mr. Murphy would like to have something to say?

The CHAIRMAN.—There is no motion before the chair.

Mr. CARVELL.—I think we have been putting the cart before the horse. I think if Mr. Lennox or Mr. Barker desire to re-examine Major Hodgins they should state so or say that they waive any further examination.

Mr. BARKER.—The Chairman, as I understand, rules that there is no question before the committee.

The CHAIRMAN.—I am expressing only my own opinion on the subject. If it is the desire of the committee that the Major should be further examined——

Mr. LENNOX.—I want to be candid with the committee. I said the other day that any member had a right to examine Major Hodgins, but I would not say, in view of the opinion of the majority of the committee, that any object would be gained in re-examining him.

Mr. CARVELL.—That is a fair statement.

Mr. BARKER.—I concur in that but I have asserted all the time, and do so still that we have not finished our inquiry.

Mr. LENNOX.—Certainly. There is no question about that.

Mr. MACDONALD.—Mr. Barker says there is no limit to this inquiry ?

Mr. BARKER.—There is a limit but it is a good way off.

Mr. CARVELL.—Then I understand that Major Hodgins is to be discharged. I would like to hear from Mr. Murphy.

Mr. MURPHY.—After having heard the views of the committee, Mr. Chairman, I take it that the decision, when put in concrete form, would be in harmony with the views expressed by the majority. In any event, and assuming that that will be the case, I have only to say this: That while Major Hodgins has abandoned his charges and while the commission does not have to submit any new evidence, there remains on the record certain statements affecting individuals which, in justice to those individuals and in fairness to the committee, I think should be cleared up. That is certain conversations have been recalled and certain statements alleged to have been made by individuals in those conversations, the individuals to whom I refer being members of the commission and their engineers; and I submit that in order to come to a proper decision of the matter and to clear up these things we should be allowed to present these individuals to the committee and permit them to make their own explanations. Then, personally, I feel that I am under an obligation to the committee to make good the statement made by me when asking Major Hodgins some questions the other day as to the percentages returned on certain estimates, having quoted at the time from a profile and having undertaken to produce the original for the information of the committee.

Mr. LENNOX.—I do not recollect it in that way.

Mr. MURPHY.—I asked——

Mr. LENNOX.—I do not recollect my learned friend undertaking to produce the originals.

Mr. CARVELL.—All I say is that I was absent at the time but I saw it stated in the Halifax 'Herald' and other Conservative papers that the majority of the committee had refused to allow the originals to be produced.

Mr. LENNOX—I don't know anything about that.

Mr. MACDONALD.—I would regard those papers as being regurly before the committee, if you undertook as counsel to bring them here.

Mr. MURPHY.—We proposed to produce the original and identify it. Upon that understanding I based my question at the time.

Mr. LENNOX.—I did not understand my learned friend, Mr. Murphy, the other day to say that he would produce the original. If it was so understood at that time then it would be right that he should do so. I understood him to make a statement on his own authority, as knowing it was correct, and to ask the witness, if he would be surprised to find that 32 per cent in one case and 29 per cent in the other were the correct classification. I did not understand Mr. Murphy to say that he would produce the original. If so I think it should be produced.

Mr. BARKER.—If that understanding appears on the notes it can be done.

Mr. MACDONALD.—Personally I was under the impression that the original was here and it was only a question of putting it in.

Mr. CARVELL.—I read in the newspapers the next morning that the originals had been refused and it surprised me.

Mr. MACDONALD.—We must not be so technical as that, the committee must have the documents.

Mr. MURPHY.—Then in addition to the commission's engineers, who are the individuals to whom I referred, there is just one other gentleman who is affected by statements made and I submit that, for the proper guidance of the committee, he should be allowed to make a statement as to the conversation attributed to him.

The CHAIRMAN.—Do you want this man to go into the box and explain his position ?

Mr. MURPHY.—The position of matters.

Mr. CARVELL.—Do you want to go into any new matters ?

Mr. MURPHY.—No, sir, I do not want to go into any new matters but simply clear up statements that are on the record.

Mr. MACDONALD.—Matters referred to in the record or that came out incidentally in the course of the examination ?

Mr. MURPHY.—Referred to in the charges and some of them came out incidentally in the evidence given by Major Hodgins during his examination-in-chief.

Mr. MACDONALD.—They all relate to matters that he spoke of in his examination ?

Mr. MURPHY.—Certainly, he spoke of them all?

Mr. MACDONALD.—Did he make specific statements?

Mr. MACDONALD.—Specific statements?

Mr. MACDONALD.—I will want to reserve my judgment in each particular case.

Mr. BARKER.—You cannot call a witness and allow him to go into the box without his being examined.

Mr. MURPHY.—That is the request I make that these individuals be allowed to appear. Mr. Doucet has been already sworn and his examination was deferred at the time. He is one of the individuals that I would ask the committee to hear an explanation from, and if the committee is not prepared to grant our request in that respect, then I would ask that we be allowed to put in affidavits.

Mr. MACDONALD.—Oh, no, I don't think it.

Mr. MURPHY.—I submit it would be very unfair to close this matter in the shape in which the record is now, with statements attributed to gentlemen they do not admit, the gentlemen referred to having been in attendance at every sitting of the committee.

The CHAIRMAN.—It would have to be understood that no new matter would be brought out and that these gentlemen would be examined simply on the evidence already given by Major Hodgins.

Mr. LENNOX.—I want to have a word to say as to that.

Mr. BARKER.—You could not limit the investigation, you know. We would call other witnesses to substantiate Major Hodgins on those points.

Mr. MACDONALD.—Personally I reserve my judgment. I would judge each case as it comes along and consider it.

Mr. LENNOX.—I think I can very well express my view of that matter now. I do not want to oppose myself to any reasonable request that Mr. Murphy may make, but we must ascertain how this matter stands. Major Hodgins, as has been alleged over and over again by Mr. Macdonald and Mr. Carvell, has withdrawn the charges. Mr. Macdonald says particularly that he has withdrawn all imputations. That is one of the expressions used—has withdrawn all imputations and charges. In that connection he expressed to Mr. Macdonald the preference for appearing before this arbitration and presenting his views there. If Major Hodgins had not done that he would have been calling witnesses to substantiate his evidence in certain particulars. However, he abandons the charges, so far as this committee is concerned, and retires. He withdraws all charges and imputations and it is on that ground that we are now proceeding—that there is nothing more, so far as the Hodgins' branch of the inquiry is concerned, to be investigated, and there is no case before the committee. Now, the evidence which Mr. Murphy desires to present can only be in contradiction of Major

Hodgins. That gentleman's position was arrived at the other day. It was elicited by Mr. Macdonald and concurred in by the major himself. The major has retired and his counsel has also retired. The former is absolutely without protection and he is discharged from attendance. The inquiry has been virtually wholly wiped out, and yet it is proposed that the gentlemen referred to by Mr. Murphy are to come forward one after the other and as far as they can contradict the major. I submit that cannot be done, it would be a perfect traversty of justice. I take very distinct ground on that. If I understand Mr. Murphy rightly, and I do not know that I do, he would confine his evidence specifically to the statements that are contained in Major Hodgins' charges. But my learned friend said that other matters were brought out incidentally referring to the classification in Quebec. Many of those matters are contained in letters that we want investigated. Nevertheless on the whole question of high or low classification this committee refuses to go on and investigate those charges, and yet if Mr. Murphy's request were acceded to, evidence would be admitted dealing with all these charges by way of rebuttal, and helping them out, that we had not been allowed to substantiate in the first place. In other words the defendant would be allowed to come in and disprove charges before the plaintiff has been permitted to finish his case. For my part I enter, as clearly and distinctly as I can, my protest against any such proceeding.

Mr. MURPHY.—Perhaps the matter will be brought more clearly before the committee if I draw attention to the specific individuals and matters referred to?

Mr. LENNOX.—I know some of them.

Mr. MACDONALD.—We would want to settle each case separately.

Mr. MURPHY.—Several of them relate wholly to conversations between Major Hodgins and one other individual in regard to which the former could not possibly, even if the inquiry went on, produce any other witness. For instance the conversation alleged to have occurred between Mr. Armstrong and himself. That is a matter as to which only Major Hodgins and Mr. Armstrong can speak.

Mr. MACDONALD.—The commission are not responsible for anything Mr. Armstrong said. He was not in their employ.

Mr. MURPHY.—He is in the employ of the Grand Trunk Pacific. He is an engineer and in justice to him and to the commission—because the alleged statement reflects on the commission—I submit that he should be allowed to come here and state whether he ever made any such statement as attributed to him by Major Hodgins in the course of conversation. Then there is the conversation alleged to have taken place between Mr. Hodgins and Mr. Grant at Kenora; as to that I submit that Mr. Grant should be heard.

Mr. BARKER.—We have nothing to do with Mr. Grant and Mr. Armstrong. We are not going to sit here and hear evidence of that kind. If we are going to have such evidence we will have to reopen the whole case.

Mr. MURPHY.—Then there is Mr. Doucet, who has been already sworn and heard in part. There is a conversation alleged to have taken place with Mr. Doucet which he does not admit. Then there is another question regarding what took place at the interview at which Mr. Doucet and Mr. Armstrong were two of the gentlemen present, as Major Hodgins states. We ask that the committee hear Mr. Doucet's statement.

Mr. LENNOX.—In view of the fact that Major Hodgins withdraws all imputations?

Mr. MURPHY.—But these matters remain on the record.

Mr. BARKER.—We could not admit that without going into the whole business again.

Mr. MURPHY.—These matters remain on the record and while it is true that Major Hodgins has withdrawn his charges——

Mr. MACDONALD.—As regards the conversation about Section 'B,' I think I would not regard that as being evidence before us. It does seem to me that if there is any evidence regarding the cut at La Tuque, the profiles speak for themselves, and conversations here and there are not matters of very great importance.

Mr. LENNOX.—With regard to the question of the profiles that were before us.

They were produced to the witness and did not arise necessarily at all out of any charges that were made by Major Hodgins.

Mr. MACDONALD.—Oh, yes, they did.

Mr. MURPHY.—I beg my learned friend's pardon.

Mr. LENNOX.—That opens out the question we have been asking to have investigated. If you call witnesses as to Section 'B,' all the witnesses we desire to call, then we are quite willing to go into the matter.

Mr. BARKER.—Yes.

Mr. LENNOX.—But I submit that no evidence should be admitted for the purpose of contradicting Major Hodgins, when he has abandoned his case, having been induced to do that by a member of the committee, and his counsel has retired.

Mr. MACDONALD.—What do you mean by saying 'that he was induced by a member of the committee'?

Mr. LENNOX.—My learned friend, with an adroitness I never saw exceeded, questioned the witness in such a way as to get him to recede from his position, I think, before he realized fully the position he was taking.

Mr. MACDONALD.—Oh, never mind that matter.

Mr. LENNOX.—You asked him the questions.

Mr. BARKER.—You asked him if he withdrew the imputations.

Mr. LENNOX.—And then My honourable friend, Mr. Macdonald, made some very eloquent remarks as to the propriety of his conduct and the honourable attitude he had assumed.

Mr. MACDONALD.—What has that got to do with this question of evidence?

Mr. LENNOX.—Why should we try this case partly? Why not go into the case wholly or not at all?

Mr. MACDONALD.—I have not expressed any opinion about this request of Mr. Murphy. The profiles referred to having been used in the examination the other day, not for the purpose of contradicting Major Hodgins, but of showing what the exact classification was in a particular cut, and it only being a mere matter of filing and handing them in, because having been used in evidence they form part of the record, I personally regard them now as being before us. The only thing that remains now is to give them to the reporter.

Mr. LENNOX.—What is it I understand my learned friend to say?

Mr. MACDONALD.—I do not admit the evidence of a conversation which took place at La Tuque regarding classification, but I regard these profiles as being before the committee.

Mr. LENNOX.—If it is a question of these papers not being at present before the committee, if that is all my learned friend means, I do not object to it.

Mr. MACDONALD.—If you have the originals, Mr. Murphy, you had better give them to us so that there will be no further discussion.

Mr. MURPHY.—There are conversations between Major Hodgins and certain individuals regarding which the Major, even if he pressed all his charges, could not subpœna any other witness because he has told us no other persons were present.

The CHAIRMAN.—Do you not think, from the fact that Major Hodgins has withdrawn all he has said, that it is not of very great consequence that these men should come before us—under these circumstances when he admits himself that he has made a mistake all through.

Mr. MURPHY.—You will pardon me for not expressing my personal opinion. I am representing clients and I understand their instructions to me to be that these matters, in fairness to them and their employees, should be explained, otherwise the record remains with these things spread over them and available for reference to any newspaper which chooses to refer to them.

Mr. MACDONALD.—It was not the profiles that were meant but the monthly estimates.

Mr. LENNOX.—It was the profiles I was speaking about. My learned friend said he was asked to produce the original profiles.

Mr. MACDONALD.—What I was referring to was the 29 and 32 per cent classification. You, Mr. Murphy, made the statement as counsel that you would produce the originals, which I regarded as tantamount to an order of the committee. Now if you have got the original documents you ought to produce them,.

Mr. LENNOX.—I can quite appreciate the position of Mr. Murphy and he is quite right in making the effort he is making. He wants to put witnesses in the box to make certain statements, but I think, Mr. Chairman, you have the right idea. The matter is practically disposed of, as far as Major Hodgins is concerned; we cannot judge what he might have done, had he gone on with his case, in bringing other witnesses to substantiate certain portions of his evidence.

Mr. MURPHY.—I will point out to my learned friend, who has treated matters very fairly, that Major Hodgins has told us with respect to several of these conversations, that no one was present except the gentleman to whom he referred——

Mr. BARKER.—There may be other ways of supporting Major Hodgins' testimony. We could not allow witnesses to be put in the box who would not be replied to.

Mr. CARVELL.—I would like to ask whether Major Hodgins' estimates of the cost of Section 'F' are actually in evidence or not? If not I think it is very important that they should be in.

Mr. BARKER.—I think the blue prints are in.

Mr. MURPHY.—What did my learned friend ask?

Mr. CARVELL.—I want to know if Major Hodgins' original estimate of the cost of constructing the line in District 'F' and the revised estimate are in evidence?

Mr. MURPHY.—They are not in evidence but we propose to submit them. We propose to submit the originals.

Mr. CARVELL.—I would like those documents to go in whether any evidence is given or not.

Mr. MURPHY.—I will now offer some evidence through Mr. Doucet. I would ask Mr. Doucet to explain to the committee what paper he has in his hand?

Mr. DOUCET.—This is the classification of the different cuts at La Tuque at the end of May.

By Mr. Murphy:

Q. In what year?—A. The different cuts in 1907.

Mr. LENNOX.—Have we had any reference to this matter before?

Mr. MACDONALD.—This is the cut which was 29 per cent classification. We want this so as to make the evidence more intelligible.

Mr. LENNOX.—This is the point that I wished to have reserved for the purpose of referring to the minutes. I think it is an important question. This evidence should not go in unless Mr. Murphy's recollection of the matter is accurate. I do not know that it is.

Mr. BARKER.—That is a further question. We will have to see what the ultimate results of the progress estimates were. It will force us to follow the thing up.

Mr. CARVELL.—I would have no objection to all the progress estimates going in.

Mr. MACDONALD.—I think all the progress estimates are before us for the purpose of making up a report. I would regard all the documents which the commission have placed before us as being in.

Mr. BARKER.—If these papers are thrown loosely at the committee we may have to examine Mr. Lumsden in regard to them.

Mr. MACDONALD.—There was a statement made by Major Hodgins that he was informed as to what the classification of a certain cut at La Tuque was. He said that he thought it should not be classified more than 40 per cent. Mr. Murphy said to him, 'Would you be surprised to learn that in certain months in 1907 they were classified as 32 and 29 per cent?' There was some discussion across the board here about the

production of the classification statements at that time and I remember saying that they must be produced.

Mr. BARKER.—Are those the classifications that were made right through ?

Mr. LENNOX.—Of that particular month.

Mr. MACDONALD.—They relate to a particular time. I do not think you were here that day, Mr. Barker.

Mr. LENNOX.—No, I think, Mr. Barker, it was the day you were absent.

Mr. MACDONALD.—It was the day you were away, Mr. Barker. Major Hodgins spoke of what he had heard was the classification in May or June last year, June being the month when he was there. Mr. Murphy utilized these documents in all respects short of formally handing them to the clerk and that is the reason I regarded them as evidence. I wanted to have them.

Mr. LENNOX.—As I have already said, if Mr. Murphy at the time undertook to produce the documents I do not think we ought to object; if he did not they should not be received. If I remember right, counsel merely asked Major Hodgins 'Would you be surprised that in a certain month the classification was 29 per cent, and that in another month it did not exceed 32 per cent?' Major Hodgins said 'I would not be surprised.' Of course, I am not professing to give Mr. Murphy's words exactly. If the matter is as my learned friend says, of course, I have no objection.

Mr. MACDONALD.—I said to Mr. Murphy across the table 'You must produce those statements.'

Mr. MURPHY.—I do not know whether it is so stated on the record.

Mr. LENNOX.—I do not want a whole lot of papers slipped in at the end of the inquiry.

Mr. MACDONALD.—I do not see any reason why all these papers produced by the commision should not be before us. For instance, Mr. Barker had placed on the record to-day a whole lot of papers. If we are going to be technical in our procedure there is no reason why some honourable gentleman should not take the documents in question and read them and so have them placed on the record.

Mr. BARKER.—I was not objecting for a moment to those estimates going in excepting this: I think if we have them for one month we should have the continuation of them, because those estimates may have doubled the next month.

Mr. MACDONALD.—Very well, let us have them all.

Mr. BARKER.—We know that occurred out west.

Mr. MACDONALD.—My only reason for making the request is that I asked Mr. Murphy to put them in the other day at the time the question came up. Otherwise I would not have suggested it.

Mr. CARVELL.—Then it is understood, Mr. Chairman, that they all go in ?

Mr. BARKER.—If those estimates are put in they must be continued onwards.

Mr. CARVELL.— That is the understanding.

Mr. BARKER.—I do not object to any original documents, but I want them to go right through.

Mr. MACDONALD.—All these documents will be available to us here at any time.

Mr. MURPHY.—I have here a summary containing what Mr. Barker was speaking about.

Mr. BARKER.—Right down to the date I want it ?

Mr. Murphy.—Yes.

Mr. BARKER.—Who has prepared that summary ?

Mr. MURPHY.—Mr. Doucet and he signs it.

Mr. CARVELL.—I suppose that same ruling would apply to Major Hodgins' original estimate of the cost of District 'F.' That is the document in the possession of the clerk and is treated as evidence.

Mr. LENNOX.—I remember Major Hodgins tried to give the figures of his original estimate and the reduction. We have no objection, wherever we have dealt with the matter, to such statements going in.

Mr. MACDONALD.—My theory is that we ought to have available any information necessary for the intelligent discussion of this matter.

Mr. BARKER.—Genuine information?

Mr. MACDONALD.—Yes, in the way of documents.

Mr. LENNOX.—All right, if we have been dealing with the matter.

Mr. MACDONALD.—Yes, if these documents have been referred to us and discussed they ought to be available.

Mr. LENNOX.—If we are to have evidence we ought to have the best evidence. Where the matter has not been opened up at all we should not have it.

Mr. CARVELL.—The papers that I speak of have been referred to but not produced.

Mr. MURPHY.—The witness and the committee have discussed the estimate of Major Hodgins, his original estimate, and the estimate of Mr. Poulin.

Mr. MACDONALD.—These two should be put in.

Mr. BARKER.—There is one other document which Mr. Murphy was to put in. In a letter from the Grand Trunk Pacific engineer to Mr. Lumsden he says he encloses a list of Mr. Mann's objections to classification. That letter of Mr. Mann's is not produced.

Mr. MURPHY.—My learned friend, Mr. Hodgins, asked me about that and I inquired at the Transcontinental Commission. There they have got a copy of a letter from Mr. Mann to Mr. Woods, but the only enclosure in the letter is a list of cuttings which has been produced. I made special inquiry.

Mr. BARKER.—Did you try to get a copy of Mr. Mann's letter. Evidently it was sent to the commission.

Mr. MURPHY.—It does look as though there was such a letter, but when my attention was directed to it at the office of the commission I found that a copy of the letter was not inclosed; it was only a list of the cuttings that has been produced here.

Mr. MACDONALD.—The clerk has the profiles and estimates of the work at La Tuque. Now where is your original estimate of the cost in Major Hodgins' own district and Mr. Poulin's estimate?

Mr. MURPHY.—I would like to know whether I am to be at liberty to ask Mr. Doucet with regard to this cutting?

Mr. LENNOX.—Ask him what?

Mr. MURPHY.—Ask him to identify it on the profile.

Mr. MACDONALD.—I thought that was identified the other day?

Mr. CARVELL.—If there is any question about it you had better identify it now?

Mr. DOUCET recalled, and further examined.

By Mr. Murphy:

Q. Will you just state between what stations on the profile, filed here as Exhibit 35, the cutting at La Tuque referred to by Major Hodgins is located?—A. Between stations 6030 to 6046.

Q. Is that the cutting marked on this profile 'Tunnel 500 feet cancelled?'—A. Yes.

Mr. BARKER.—It is not easy to follow the correspondence. There has been a mistake somewhere. A most important letter was sent from Mr. Woods to Mr. Morse, a copy of which was sent apparently to the committee (reads):

'Herewith find copy of letter dated January 22nd from District Engineer Mann, which fully explans itself.' I referred you to another letter containing a list, but have you got the one referred to in the letter of January 29th, 1907, from Mr. Woods to Mr. Morse? They evidently sent it to you.

Mr. LENNOX.—There was an understanding which may cover the whole ground. Mr. Hodgins gave you some lists, Mr. Murphy, of documents required, and I understood you were endeavouring to get the papers?

Mr. MURPHY.—This was the one.

Mr. LENNOX.—But you had a little memorandum the other day. Did you get all those papers referred to.

Mr. MURPHY.—What was the enclosure in that letter, Mr. Barker?

Mr. BARKER.—Somebody evidently sent to the commissioners Mr. Woods' letter to Mr. Morse, dated January 29th, 1907, and with it a letter dated 22nd January, from District Engineer Mann. These are your productions here, you know?

Mr. MURPHY.—A letter from Mann to Woods?

Mr. BARKER.—Evidently from Mann to Woods. The list is referred to in aonther letter.

By Mr. Murphy:

Q. I would ask Mr. Doucet if the cutting which he has identified on his profile is the one as to which the classification of 29 per cent solid rock in May, 1907, and 32 per cent solid rock in June, 1907, have reference?—A. Yes, 29 per cent solid rock and 10 per cent loose rock in May, 1907. In June 32 per cent solid rock and 10 per cent of loose rock. (Exhibit No. 40.)

Mr. LENNOX.—I might interject a statement just here while we are on this matter. I have looked up the matter of the percentages and although neither Mr. Murphy and myself is exactly right in our statement I think it is only proper that the estimates should go in. Mr. Murphy gave the classification as 32 per cent for the month and 29 per cent for the month previous. Mr. Hodgins then said, 'I ask that these statements be produced?' To which Mr. Murphy said 'They will be produced.'

Mr. MURPHY.—Yes, that was my understanding.

Mr. LENNOX.—That clears up that point.

Mr. MURPHY.—Now, Mr. Chairman, what is the view of the committee in regard to my asking Mr. Doucet about the conversations agreed to have taken place with regard to that cutting which he identified?

Mr. LENNOX.—That would not be right and it would not be fair.

Mr. BARKER.—There is just this: you want to be fair to Major Hodgins. As I understand the major was very uncertain about the cuts he saw. Now, you want to ask Mr. Doucet, who is your witness, to describe the cutting in question.

Mr. MURPHY.—Between stations 70 and 80.

Mr. BARKER.—Major Hodgins thinks that is possibly the cut that he saw.

By Mr. Murphy:

Q. Would you, Mr. Doucet, describe the cutting shown on this profile, Exhibit 35, between stations 70 and 80? I suppose my learned friend means the classification?—A. That is the cut which they saw when they were at La Tuque in June, 1907. The total quantity in the cut is 48,000 yards altogether.

Q. How do you classify it?—A. It was classified in June at 87 per cent solid rock, 13 per cent loose rock. (Exhibit No .39.)

By Mr. Carvell:

Q. Is that the cut that you and Major Hodgins saw in June?—A. No, I was not at that.

By Mr. Murphy:

Q. Was that the tunnel cut?—A. No.

By Mr. Macdonald:

Q. Which was the tunnel cut?—A. The one immediately east of that, between 6030 and 6046.

By Mr. Barker:

Q. What is that you are giving particulars of?—A. The tunnel cut.

By Mr. Macdonald:

Q. What was the classification of that tunnel cut?—A. 29 per cent solid rock.

By Mr. Murphy:

Q. In what month?—A. In the month of May, 29 per cent solid rock and 10 per cent loose rock. In the month of June 32 per cent solid rock and 10 per cent loose rock.

Mr. BARKER.—That is what you were referring to the other day?

Mr. MURPHY.—I would like to ask the witness, with the permission of the committee, whether the classification of that tunnel cut and the other cuts in the vicinity was made by him, or by Grant, or by whom?

Mr. LENNOX.—We will be getting on in this thing.

Mr. BARKER.—I only asked the other question to avoid possible misunderstanding.

Mr. MACDONALD.—I do not think it is of any importance, I don't see what difference it makes. Did you make it, Mr. Doucet?

The WITNESS.—No.

Mr. LENNOX.—As we understand now we are not following the inquiry at all.

Mr. CARVELL.—It would be opening it up for quite a time if we went into this.

Mr. MURPHY.—The only matter with reference to Mr. Doucet personally is whether he ever told the Major that this tunnel cut was classified at 86 per cent. I should like to ask the witness that?

Mr. LENNOX.—No, I submit that would not be right.

Mr. BARKER.—Not unless you are prepared to go on.

Mr. MACDONALD.—I quite agree with you. I do not see any advantage in going into that. The documents speak for themselves. I assume that Mr. Doucet would not say it classified something that it did not classify. There would not be any sense in that.

Mr. MURPHY.—At the moment, then, I understand the committee are asking for the estimates of cost on District 'F'?

Mr. MACDONALD.—Yes.

Mr. MURPHY.—Then I will ask Mr. Poulin to produce those.

Mr. BARKER.—What is wanted?

Mr. CARVELL.—We want to identify the original documents containing the estimates of the cost of construction in District 'F.'

Mr. MACDONALD.—The commission did not have the originals when we discussed the matter here before. Now, Mr. Murphy, get Major Hodgins' estimate and Mr. Poulin's and get Mr. Poulin to identify them.

Mr. BARKER.—If they are original documents on the face of them.

Mr. MURPHY.—What did I understand to be the reply to my request with respect to the question addressed to Mr. Doucet, as to whether he ever said this cut at La Tuque was classified as 86 per cent?

Mr. MACDONALD.—I do not understand how Mr. Doucet said it was 86 per cent when the estimates themselves show it was 29 and 32 per cent in those two months.

Mr. LENNOX.—This is a matter of argument.

Mr. CARVELL.—I think in view of the documents produced we would all assume that Mr. Doucet would deny that he ever stated it.

Mr. MURPHY.—Under the arrangement made with the committee I now put in the original estimate of Major Hodgins of the cost of construction on District 'F' referred to, the $13,000,000 estimate. (Exhibit No. 41.)

Mr. S. R. POULIN sworn:

By Mr. Murphy:

Q. You have already produced Major Hodgins' original estimate, referred to as the $13,000,000 estimate?—A. Yes, sir.

Q. What is the other estimate, which you produce?—A. This estimate was made in the months of December and January by the resident and division engineers on District 'F' after the Major left. (Exhibit No. 42.)

Q. Now, as compared with the estimate of thirteen millions, what is the amount of this estimate filed as Exhibit 42?—A. This estimate is $17,534,000.

Q. And how is the difference between these two estimates made up?—A. It was made up—this takes in everything, rails and ties and everything. The estimate of Major Hodgins was only to grading. My estimate includes everything, stations and sidings.

By Mr. Barker:

Q. Taking these items as they are here what is the difference?—A. There would be about a million and a half difference.

Q. Lower?—A. My estimate is one and a half millions higher than Hodgins'.

By Mr. Murphy:

Q. Why?—A. Because this estimate was made according to the cross sections.

Q. What estimate?—A. This last estimate, as I call my estimate, was made by the resident and division engineers on the work after the actual cross-sections had been made.

Mr. MACDONALD.—Are we not going into the evidence now?

By Mr. Barker:

Q. Was this increase of one and a half millions the result of any change in the classifications?—A. Oh, no, it was not. It was due to omissions in the quantities.

By Mr. Macdonald:

Q. Omissions in the quantities where?—A. On the line.

Q. Certain quantities were taken out, you mean?—A. Quantities in the original estimate.

Mr. LENNOX.—I think we are going beyond what was agreed upon?

Mr. MACDONALD.—I don't think we should have any evidence, the documents should speak for themselves. We certainly ought to have these two estimates.

Mr. MURPHY.—I am attaching a list of these omissions for the information of the committee.

Mr. BARKER.—I think the evidence is incomplete if you only give Major Hodgins' first estimate and then your No. 3 estimate.

Mr. MACDONALD.—We should have Major Hodgins' second estimate also?

The WITNESS.—Here is a statement of the estimates taken by each division. The estimate is a compilation from Major Hodgins' revised quantities and the estimate was made by the engineers after I went upon the work, side by side, giving the quantities of each division. That was compiled lately. I can sign it if you want it for the information of the committee?

Mr. LENNOX.—I don't think we want it.

By Mr. Barker:

Q. When was it made?—A. In the month of April this year. It is a comparison of the two estimates side by side.

Mr. BARKER.—I do not think we have a right to go into a statement made since April, 1908.

Mr. MACDONALD.—I do not want evidence, all I want is the documents as far as I am concerned, the two estimates; one made by Major Hodgins and the other by Mr. Poulin.

Mr. BARKER.—Mr. Poulin's estimate has been made in April of this year.

Mr. CARVELL.—Oh no, it was made in December.

Mr. MURPHY.—I have asked the witness to produce the revised estimate made by Major Hodgins for the information of the committee.

The WITNESS.—This revised estimate is as close as it can be had from the figures that were in the office at St. Boniface, that is the revised estimate of Major Hodgins (Exhibit No. 43).

By Mr. Barker:

Q. You say it is as close as you could make it?—A. It is compiled from the loose sheets found in the office, the only documents left in the office when Major Hodgins, left, and it is compared with the estimate that he had in his book that he had here before the committee. It amounts to $11,800,000. It is taken from loose sheets, the estimates of McIntosh, Heaman, A. G. Macfarlane, M. C. Macfarlane and McTaggart. The total amounts to within a few thousand dollars of the estimate in Major Hodgins' book.

By Mr. Murphy:

Q. Do I understand there was a single sheet containing all the details?—A. No, there were only loose sheets.

Q. What else were you offering to the committee?

Mr. BARKER.—Now this is giving entirely new evidence.

Mr. LENNOX.—I will have to ask to have struck out anything in the way of new evidence.

Mr. MURPHY.—I was asking what were the other estimates or blue prints he was offering to the committee when I was stopped?

Mr. LENNOX.—You are putting in evidence upon a question that we have not been investigating in any way. I don't think we ought to allow that.

Mr. MACDONALD.—I do not think it is material if you have got the other estimates in.

Mr. LENNOX.—I do not think we had better take it.

Mr. BARKER.—It is all after this question was raised.

Mr. MURPHY.—There is another request I made to the committee as to hearing the evidence of these individuals concerning whom statements had been spread upon the record. What I have reference to is the conversation between them and the major. I do not know whether the committee will take the question under advisement?

Mr. BARKER.—You can give them a certificate of character yourself.

Mr. MURPHY.—They do not need a certificate of character.

Mr. BARKER.—You know in court such a thing happens every day?

Mr. MACDONALD.—Of whom are you speaking?

Mr. MURPHY.—Of Mr. Grant, Mr. Armstrong, Commissioner Reid and Commissioner Young.

Mr. MACDONALD.—There is no necessity for Commissioner Young or Commissioner Reid giving any evidence in view of the present position of matters. In regard to the others it is perfectly immaterial. With respect to Grant, Major Hodgins said the other day that he did not attribute to him anything improper. I deprecate the giving of evidence now.

Mr. MURPHY.—The statement attributed to Mr. Armstrong he is prepared to deny. He denies that he ever said there were two millions over-classification.

Mr. LENNOX.—It is a contradiction.

Mr. MACDONALD.—It is a contradiction. In view of Major Hodgins' position, the explanation he has made and the fact that his case had not been concluded at the time he abandoned it, I do not think it is material. I assume that Grant would contradict the statement attributed to him?

Mr. MURPHY.—Certainly Grant would contradict the statement. It is a matter that I would press on the attention of the committee in view of the statements that are on the record.

Mr. PARENT.—Do you think it is fair, Mr. Chairman, that an engineer who has

been charged with saying there was an over-classification of over two million dollars should not have a right to come here and deny it? It would be a great hardship if the statements were allowed to go on the record undenied. That man may be looking for a position later on and he will be called upon to contradict that statement. I do not think it is fair that the men mentioned by Major Hodgins should not have the right to contradict those statements. As far as we are concerned I am prepared to go on with the investigation as long as you like. We have nothing to hide.

Mr. LENNOX.—Where are we at?

Mr. PARENT.—We are here for business.

Mr. MACDONALD.—I desire to say, before we conclude, that some of the gentlemen who have been given the privileges of this room as representing the press have abused those privileges by absolute misrepresentation, distortion of the evidence and incorrect versions of what has taken place in this committee. If at any future date a similar course is taken, and I happen to be on the committee, if there is any way in which the privileges of parliament can be vindicated with respect to gentlemen of that type I propose to follow it. In this case particularly my friend Mr. Carvell and myself have been represented as having pre-judged this case from the very inception of it and yet the record of the proceedings, which is a verbatum one, shows that such an allegation is absolutely and wholly untrue. I am in the judgment of my friends of the committee who are not of our political faith if we have not in these proceedings endeavoured to act in as fair and judicial a manner as possible. Every bit of evidence, from any source tendered, that could be received has been received; and as far as desiring to deal with these charges fairly and equitably, I am bound to say, as far as I am concerned, and I think I can say for the gentlemen associated with me, that these misrepresentations are entirely unwarranted.

Mr. CARVELL.—In addition to what Mr. Macdonald has said, I want to state that as far as I have been able to read these newspapers the most vicious atacks have come from journals in the maritime provinces, evidently with the idea of having them read where Mr. Macdonald and myself are best known. I can only repeat what he has stated and hope that some means may be adopted whereby such very unfair reports may be prevented in the future.

Mr. PARENT.—Here is a statement in a Quebec paper of yesterday (reads):

'Present indications are that the Hodgins inquiry will not be prosecuted further. It is quite clear that Hodgins has proved his charges, letters of Grand Trunk officials having been unearthed which show they strongly pleaded against over-classification. It transpires now that the commission in January last made an agreement with the Grand Trunk Pacific to refer the question to a commission of engineers to determine as to whether the company has to pay rental back upon certain building lands. When the Liberal members heard of this they suggested that it was useless to proceed further with the inquiry. The point will be fully determined to-morrow, but the evident desire is to shut off further investigation, in order to prevent Grand Trunk engineers being on the stand to uphold Hodgins' charges.'

I do not know of anything more harmful than a report such as that.

The CHAIRMAN.—That is very unfair. What paper is that?

Mr. PARENT.—The Quebec 'Morning Chronicle.'

Mr. MACDONALD.—It is not in accord with the evidence that is in.

Mr. PARENT.—I would have been more satisfied if we could have had all the engineers here to prove that the charges are not justified by the facts.

Mr. CARVELL.—I am not entirely satisfied with the course this has taken because, as you will remember early this afternoon, I reserved to myself at lease the right to say that my learned friends could call witnesses to prove fraud on the part of the commission if they wanted to, and that necessarily involved the right of the commissioners to call their witnesses to disprove those charges. But in view of the course that the case has now taken I see nothing to do now but to close it up, therefore I will move that the taking of evidence in this case be now closed, and that the witnesses be

discharged and that the committee meet on say Tuesday next to decide what the next step shall be.

Mr. LENNOX.—Do not combine the two in one motion, but make a motion first as to the closing of the evidence, we want a vote on that, and with regard to the other part we will of course vote with you.

Mr. CARVELL.—I am quite willing to do that. I move that the evidence be now closed and that the witnesses be discharged.

Question put and motion declared carried.

The Committee adjourned.

(For further proceedings, see pages 57 to 62.)


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